

**REPORT OF THE AUDITOR OF PUBLIC ACCOUNTS
ON APPLYING AGREED-UPON PROCEDURES
TO THE KENTUCKY BOARD OF EDUCATION**

Harlan County High School Construction Project



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Independent Accountant's Report
On Agreed-Upon Procedures

We have performed the procedures below, which were agreed to by the Kentucky Board of Education (KBE), solely to assist the KBE in determining if the Harlan County High School construction project complied with laws and regulations.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below, either for the purpose for which this report has been requested or for any other purpose.

Our procedures were as follows:

- Reviewed laws and regulations governing School Facilities Construction;
- Reviewed School Facilities Construction practices;
- Evaluated compliance of project related bids, contracts, payments, change orders, and invoices associated with the Harlan County High School construction project;
- Conducted interviews with the Department of Education, Harlan County School District, and architectural and engineering contractor personnel associated with the Harlan County High School construction project; and,
- Evaluated construction project management by the Department of Education and at the district level over the Harlan County High School construction project.

The results of our procedures are presented in appendices to this report.



Kentucky Board of Education
(Continued)

We were not engaged to, and did not, conduct an audit; the objectives of which would be the expression of an opinion on the specified elements, accounts, or items. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Kentucky Board of Education and is not intended to be and should not be used by anyone other than the specified party.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen
Auditor of Public Accounts

September 7, 2007

Introduction

The Auditor of Public Accounts was requested by the KBE to review the new Harlan County High School construction project and the process utilized by the Kentucky Department of Education (KDE) to review and approve construction projects.

In order to perform the review requested by the KBE, we interviewed numerous local school officials and citizens in Harlan County, staff of KDE, School Facilities Construction Commission (SFCC), Office of Education Accountability (OEA), the construction firm, the architectural firm, and the financial agents.

The primary concern involving this project is the significant increase in cost from \$23 million to an estimated \$50 million.

KDE has a complex and comprehensive set of guidelines and procedures to review and approve school construction projects. The increase in cost for this project was not due to lack of formal written procedures.

The following factors had a profound impact on this project:

- The \$23 million project cost was underestimated from the beginning. It did not include site cost and architectural and engineering fees. This same situation is not limited to the Harlan County project. OEA has previously documented that all proposed school facility projects are subject to this same problem.
- During the period of time this project was being developed, the construction industry experienced back-to-back years of double-digit inflation post-Katrina. The volatility in construction costs is an inherent risk that will impact future school construction projects and, therefore inflationary adjustments are critical when estimating project costs.
- The school construction process focuses on a very simple form (BG-1), which compares the available revenue for a project to the projected cost. However, the BG-1 does not reflect the total cost to complete a project.

Two significant changes occurred related to this project after the initial approval:

- The size of the project was increased from 173,450 square feet to 220,000 square feet.
- When construction bids were above available funds, the project scope was reduced to fit within available funding. The effect of this action is the total cost of the complete project was no longer reflected on the BG-1.

Introduction

(Continued)

The Harlan County Board of Education (HCBOE) and KBE supported the project due to enhanced educational facilities and the offer of one-time special state funding to build the school. The \$13.6 million in state funding compared to an estimated cost of \$23 million may not have been as compelling to all decision makers if the actual project costs had been known.

- KDE has 4 employees to manage approximately 1,000 projects. KBE and the General Assembly need to recognize that state staff is not on-site for project management. This is a basic policy decision whether KDE or local boards should manage these large projects.
- The HCBOE has maximized its bonding capacity and will utilize operational savings from the closed high school to pay for this project.

This financial pressure will continue since the Harlan County school system and the county is not projected to grow and have, in fact, been losing population.

In reviewing this project, we evaluated construction project management by KDE and at the district level. As with any project of this magnitude, there are administrative and technical problems, which are documented in this report. However, the issues identified, did not create the cost increase.

The initial \$23 million cost estimate was too low - inflation, site development costs, and architectural and engineering fees increased costs. When the project scope was reduced to proceed with available funds, the local board and KDE then, in fact, proceeded on a path to construct a school, which would require additional unidentified funds to complete the project. The cost per square foot and the number of change orders were comparable to other school construction projects. Some savings could have been achieved by constructing a more basic design, but this decision is not the primary cause of the increased costs.

The area the KBE should focus on is more careful review of the BG-1. If the project scope is reduced to meet available funds, all parties must understand what the true eventual cost of the project will be.

- KBE and the General Assembly must address the fact that estimated costs for proposed school projects may be significantly understated. If accurate cost estimates are not available, the cost overruns that affected the Harlan County High School project could reoccur on other school construction projects. KBE and the General Assembly should update the estimated total costs of pending school projects.
- KBE and the General Assembly should carefully review the role of KDE in the management and oversight of school construction projects and provide appropriate resources.

Background

General Assembly Action

An appropriation was made by the 2003 General Assembly to assist local boards of education to replace the Commonwealth's poorest school facilities. House Bill 269 offered the Harlan County School District \$13.6 million bonding potential to consolidate Evarts, Cumberland, and James A. Cawood high schools into a new central high school. To be eligible to participate in the Urgent Need School Trust Fund Program in fiscal year 2003-2004, a local school district was required to have a project that was (1) identified in the District Facility Plan (DFP); (2) a "Category 5" school, or those in poorest condition, in accordance with the KDE's Building Assessment document of February 20, 2003; and, (3) for a school with or including enrollment based on best practices outlined in 702 KAR 1:001, the Kentucky School Facilities Planning Manual. Category 5 is referring to a school that is older than 40 years and that also requires major renovation. The wording of the house bill required a district to consolidate schools in order to meet the criteria. Refer to Appendix E for a listing of the projects that qualified for this funding.

In order for the Harlan County School District to receive a SFCC offer of approximately \$1.4 million, the DFP had to be approved by June 30, 2003. The inability of the district to get a DFP approved in 2001 caused the district to not participate in the 2000 SFCC offer. In addition, approval of the DFP was required so that the HCBOE could accept \$13.6 million from the Urgent Needs Trust Fund to build a new central high school.

On May 6, 2003, the HCBOE voted by a 3-2 majority to request the KBE to waive an administrative regulation governing the adoption of the DFP. The request was made due to the Local Planning Committee's (LPC) unsuccessful efforts to achieve a two-thirds majority vote required by 702 KAR 1:001. Pursuant to KRS 156.160, the KBE is granted the authority to waive the two-thirds-majority vote.

On May 7, 2003, the superintendent of Harlan County Public Schools submitted a letter to the Division of Facilities Management (DFM) requesting the KBE to waive an administrative regulation governing the adoption of the DFP for the Harlan County Public Schools. The letter stated that if the KBE did not approve the waiver, the "district's future ability to fund building projects is in question due to its declining enrollment. The only way future needs can be met if the waiver is not granted is through additional taxes upon the local population." On June 5, 2003, the KBE approved the request for a wavier of the two-thirds-majority vote and approved the DFP.

In addition to having to secure a waiver of the two-thirds-majority vote and approval of the DFP, HCBOE was also required to secure approval for the site proposed for the new high school. Pursuant to 702 KAR 4:050, whenever the cost of school site acquisition and site preparation exceed 10% of the maximum budget for the project, approval of the KBE must be secured. During the April 2004 KBE meeting, approval was granted for HCBOE to purchase the property.

Background (Continued)

The site chosen for the construction of the new high school was located on the north side of US 119. The parcel of land totaled 488 acres. Based on the 2003 PVA records, the 488 acres of property was assessed at \$90,350. This valuation represented agricultural value only not fair market value, according to sources we interviewed. The HCBOE did not purchase the entire 488 acres. An agreement was entered into to purchase 105.59 acres of the land for \$1,075,000.

In reviewing this project, we performed the following procedures:

**Procedure: Reviewed laws and regulations governing School Facilities Construction. Reviewed School Facilities Construction practices.
(Also, refer to Appendix G)**

As a result of The Kentucky Education Reform Act of 1990 (KERA), control of schools was transferred to the local level resulting in the local school district assuming responsibility for the development of a Master Educational Facility Plan (MEFP) and a DFP for capital construction. In order to develop a MEFP and a DFP, a LPC must be formed. The superintendent is responsible for initiating the process by which the LPC is selected. The committee members consist of parents, teachers, building administrator, central office staff, community leaders, board members and local building/zoning officials. The superintendent serves on the LPC; however, he/she does not have voting rights. The superintendent serves as the interim chairperson until a chairperson is officially selected. A simple majority determines all actions by the LPC. Administrative regulations at 702 KAR 1:001 provides guidelines that must be followed when selecting members that are to serve on the LPC.

DFM is responsible for overseeing the construction of public school buildings and grounds. In accordance with 702 KAR 1:001, each school district must develop a local DFP at the completion of a four (4) year cycle, or eight (8) year cycle (maximum), if the district applies and is granted a waiver. The MEFP contains information including the district profile, demographic information, facility conditions, educational program, transportation information and finances. KDE provides assistance to the LPC in the development of the MEFP and DFP; however, KDE is prohibited from being actively involved in the development of either the MEFP or DFP.

KDE's responsibilities under 702 KAR 1:001 are as follows:

The Facility Planning Process

- Schedule Local Education Agency (LEA) facility plan completion date
- Provide required orientation
- Disseminate information (i.e. building inventory, planning information handbook, etc.)
- Verify demographic information
- Verify proposed DFP of LEA
- Coordinate KBE local district public hearing

Background
(Continued)

**Procedure: Reviewed laws and regulations governing School Facilities Construction. Reviewed School Facilities Construction practices.
(Also, refer to Appendix G) (Continued)**

- Prepare staff note for KBE approval using information supplied by the district
- Return approved DFP to the LEA when changes are recommended by the KDE
- Maintain permanent file
- Coordinate amendments and reprioritizations for KBE approval

Site approvals, leases, easements, and property disposals

- Consult with LEA regarding site selection(s)
- Provide tentative approval of potential site(s)
- Conduct on-site review of proposed site(s)
- Review required documentation submitted for site approval(s)
- Prepare staff note for site(s) requiring KBE approval
- Prepare waiver letter for chief state school officer where applicable
- Prepare site approval letters
- Receive and maintain file on deeds and insurance certificates
- Review and approve proposed real property leases
- Review and approve easements
- Review and approve real property disposals

Capital construction budgeting

- Consult with LEA and fiscal agent concerning bonding potential and SFCC funds
- Consult with LEA and architect to size the scope of the construction project
- Assist LEA in preparing the initial Project Application Form that corresponds to the scope of work and priority as outlined on the DFP

Construction project process

- Review and coordinate approval of the initial Project Application Form
- Review and approve the architect/engineer contract
- Review and approve the construction management contract
- Assist in the development of education specifications as requested
- Review LEA educational specifications
- Review the master site plan for the project
- Review and approve schematic plans in conformance with the educational specifications
- Review and approve design development plans
- Review enlarged plans for special areas with respective KDE consultants
- Review and approve the completed plans and specifications for bidding

Background
(Continued)

**Procedure: Reviewed laws and regulations governing School Facilities Construction. Reviewed School Facilities Construction practices.
(Also, refer to Appendix G) (Continued)**

- Ensure the plans and specifications are submitted to the Department of Housing, Buildings, and Construction for review by the Division of Code Enforcement (Kentucky Building Code, Life Safety Code, Structural, Electrical, Mechanical, Energy, and DAD Accessibility), Division of Plumbing, Division of Water, the Division of Air Quality and the Army Corps of Engineers
- Review and evaluate bid proposal documents for approval
- Review budget scope and request revised budget(s) as needed
- Notify KDE Division of Finance of status for approval of bond sale
- Receive and maintain file of executed contracts, performance and payment bonds, and insurance certificates
- Review, evaluate, and approve proposed change orders
- Consult with LEA, architect, engineer, construction manager, contractor, and attorney in relation to problems experienced during construction
- Conduct a final inspection of the completed construction and advise LEA of project closeout procedures
- Approve Final Approval and Payment Application Form authorizing final payment and releasing of retainage

Other activities

- Environmental issues
- Consultation in the areas of:
 - o Asbestos abatement and grant application approval
 - o Lead based paint
 - o Lead in drinking water
 - o Radon gas and mitigation
 - o Clean Air Act
 - o Underground storage tanks
 - o Surface run-off
- Statewide Building Inventory – coordinate data and maintain permanent files
- Kentucky SFCC – calculation of statewide facility needs assessment
- Architectural Barrier Removal Grant Program – approved and coordination
- Americans with Disabilities Act consultation

Although DFM is charged with approving all acquisition proposals, there is no mechanism to ensure that KDE is provided with a complete profile of candidate sites or with information on potential alternate sites.

One concern raised by those opposed to the construction of the Harlan County High School was the number of change orders that have occurred during the construction process. As shown in the comparisons at Appendix F, this project, thus far, has had a total of 13 change orders. Bryan Station High School has had a total of eight change

Background
(Continued)

Procedure: Evaluated compliance of project related bids, contracts, payments, change orders, and invoices associated with the Harlan County High School construction project.

orders; whereas, Knox Central High School has had a total of 123 change orders. The number of change orders that occurred on the Harlan County High School project is not out of line with other school construction projects. As a matter of fact, the change orders on the Harlan County High School project is substantially lower than the number that occurred while Knox Central High School was being built.

Regarding the change orders that are submitted to DFM, 702 KAR 4:160 Section 8 (4) states, “The Division approval shall not indicate the change order cost is the best cost or the requested change order is the most appropriate action.” Thus, it is not the responsibility of DFM to determine if HCBOE has submitted a change order that is cost effective and the most appropriate action to be taken regarding the construction of the school. That responsibility lies with the elected members of the HCBOE. KDE provides guidance to the Harlan County school district regarding management of its schools. However, KDE does not manage the school district.

Lack of Internal Control Over Pay Requests and Change Orders: Several pay requests from bid package #2 (site development) were computed incorrectly. The original contract sum and change orders to date were not always added correctly. We found mathematical errors on four (4) pay requests, pay request #8, #10, #12, and the final pay request #14. Also change orders were overstated on three (3) of the pay requests, #10, #12, and the final pay request #14. These pay requests were signed by the contractor stating work had been completed and also signed by the architect verifying the work had been completed and authorizing payment to the contractor. A proper pay request was not submitted for the final payment on bid package #1 for the bridge replacement. Change order #2 on bid package #1 for the bridge replacement was not approved by KDE in a separate letter however; approval was given on the final BG-4 for this change order. The aforementioned errors did not result in overpayments to the contractor.

Lack of Internal Control Over Disbursements: From our testing of disbursements, we found that the HCBOE did not always maintain original invoices for disbursements, the contractor did not mark his approval on all invoices presented for payment.

HCBOE Did Not Follow The Board Policy For Disposal Of Surplus Property: The HCBOE declared culvert pipe purchased for the project surplus and approved the sale of the pipe. The pipe was initially purchased for \$29,428 and was sold to a mining company on December 20, 2005 for \$14,400. At the time of the transaction, the HCBOE had not adopted the Model Procurement Code and was operating under an administrative policy adopted by the HCBOE. The HCBOE’s policy stated that a certified appraisal should have been secured; however, HCBOE used a local vendor who was not a certified appraiser to provide the \$14,400 sale price.

Background
(Continued)

Procedure: Evaluated compliance of project related bids, contracts, payments, change orders, and invoices associated with the Harlan County High School construction project. (Continued)

The Appraiser Was Not Appropriately Licensed To Do The Land Appraisal: The appraiser was a Certified Residential Real Property Appraiser and was not authorized to appraise any property other than 1-4 unit residential with a sales price or value greater than \$250,000. The Kentucky Real Estate Appraisers Board investigated a complaint against the appraiser and determined that in doing the appraisal he violated professional standards of practice. The appraiser faced formal disciplinary action from the Kentucky Real Estate Appraisers Board and was required to complete 15 hours of continuing education and ordered not to supervise any associates for a period of two years.

HCBOE Did Not Provide Documentation of Compliance With Bid Requirements: The HCBOE did not comply with bid requirements regarding capital construction processes as outlined in 702 KAR 4:160 Section 3 for the construction phase of the Harlan High School Project. We could not find approval by the HCBOE for the second bid for the construction phase of the project. We could not find approval from KDE or from the architect authorizing the school district to accept the second bid. The local board as well as KDE gave approval for the board to enter into a contract with the bidder; however, no documentation was found regarding the bid opening or the acceptance of a bid. Also bids were not advertised in the local newspaper having the largest circulation in the school district.

The HCBOE advertised for bids for the construction phase at a board meeting on February 27, 2006. The architect recommended the HCBOE reject the two bids received since they were about \$3,000,000 more than was expected. The architect recommended the board reject the bids and explained that since the bids had been rejected, various changes could be made to lower the price. HCBOE gave approval for the architect to set another bid date for the new Harlan County High School with proposed permanent changes, proposed temporary changes, and proposed alternate bid packages. At a May 5, 2006 board meeting, the sole remaining bidder for the construction phase (bid package #3) offered the school district a \$300,000 reduction in their bid to move forward without delay. On May 22, 2006, the HCBOE voted to enter into a contract with the bidder for base bid of \$29,900,000.

HCBOE Did Not Review All Written Inspection And Progress Reports Provided By The Architect: The HCBOE did not receive and review all written inspection and progress reports provided by the architect. According to 702 KAR 4:160, Section 3 (4) (e), "the local board should at least once a month, receive and review written inspection and progress reports provided by the architect."

The HCBOE Did Not Monitor Terms of Contract For Compliance: The HCBOE did not monitor terms of the contract for the bridge replacement. The contract date specified the work to be finished within 180 days. The contract was dated August 2004. The final BG-4 was approved October 24, 2005. The contractor exceeded the date for completion of the contract.

Background
(Continued)

Procedure: Conducted interviews with the Department of Education, Harlan County School District, and architectural and engineering contractor personnel associated with the Harlan County High School construction project.

In evaluating this project, we interviewed a wide range of individuals including the contractor, architect, citizens of Harlan County, members of the HCBOE, personnel in KDE, and the bonding agent. This project has been under great scrutiny from citizens within the community who were and continue to be against school consolidation. Some of the reasons cited for the escalating cost include 15% annual inflation in construction projects, hikes in construction materials resulting from hurricane Katrina, and skyrocketing gas prices. However, these are inherent risks that will continue to affect all construction projects. The Harlan County project is an example that a change is needed in the way school construction projects are estimated.

Procedure: Evaluated construction project management by the Department of Education and at the district level over the Harlan County High School construction project.

The BG-1 For This Project Was Never Revised From The 2003 Estimate: The construction application form, known as the BG-1, contains a description of the project, an estimate of the project cost, square footage and building capacity data, and a listing of all funding sources. When the BG-1, Project Application, was submitted on November 4, 2003, the cost of the project that would consolidate Evarts, Cumberland, and Cawood High Schools in Harlan County was listed as \$23 million. The gross square footage was listed as 173,450 (Refer to Appendix C) and the student capacity was stated as 1,300. However, the gross square footage of the new high school is now approximately 220,000 square feet. This is an increase of 26.84 %. The 220,000 square foot facility will boast a freshmen wing, a 500-seat auditorium and a gymnasium that will offer a walking track and a seating capacity of 3,500. The student capacity has remained the same since the submission of the initial BG-1, Project Application in 2003.

As stated previously, the cost as submitted on the BG-1 was \$23 million. Thus far, funding of \$40,259,290 has been committed to the project. During the exit process, the HCBOE provided an exhibit, which shows the remaining cost to complete the project at \$5 million less than what is shown in Appendix B (Refer to Appendix K for a recent estimate). This adjustment would reduce the total projected cost from \$53 million to \$48 million. The reduced project cost reflects several expenditure items, which have been eliminated or reduced. It should be noted that remaining costs shown in both Appendix B and Appendix K are estimates to complete the project and are subject to change. We are including both exhibits for informational purposes.

Background
(Continued)

Procedure: Evaluated construction project management by the Department of Education and at the district level over the Harlan County High School construction project. (Continued)

The BG-1 Does Not Reflect The Total Cost For Completing A Project: While the 130.43% increase in cost of construction is astronomical, when viewing at first glance, one must remember that the \$23 million that was submitted on the BG-1 in 2003 was based on projected cost for 2003, and did not include site development costs or architectural and engineering fees. The construction bid process did not start until 2006, approximately three years after submission of the BG-1, Project Application. From the time the BG-1 was submitted in 2003 until the start of the bidding process in 2006, the project has encountered many obstacles. The approval process for the DFP and site purchase required a significant amount of time. During that time, the price of oil and building materials increased substantially.

KDE's Staffing Levels Are Insufficient For Effective Project Management: Based on a random review of the files maintained by the DFM regarding school construction projects, school districts may consult with the Division for guidance regarding all aspects of the construction and the facilities planning process.

DFM is staffed by a Director, Administrative Specialist III, Administrative Secretary, two architects, and two consultants. At the present time, one architect handles all projects in the planning stage, and one architect handles all projects in the construction stage. At any given time, over 1,000 projects are ongoing. With the increase in construction projects and the limited staff of architects employed by DFM, KDE needs to address the staffing needs in DFM.

DFM has insufficient resources to provide the "oversight" that is required to ensure the effectiveness and efficiency of the school construction process. The workload to review and approve all construction documents is an overwhelming, technical task, requiring professional staff familiar with planning, engineering, and architecture.

At the current staffing level, the DFM is unable to fulfill the needs of the school districts and to ensure that school districts are in complete compliance with the regulations. Traditionally, school districts have functioned as real-estate developers, both purchasing the land and funding the project.

Additional staff would afford DFM the opportunity to conduct training seminars for members of the local school board on the mechanisms required to develop a facility plan; processes on obtaining available funding and how to make the best use of that funding; procedures to follow in the bidding process and how to make best use of space that is being built or renovated.

Background
(Continued)

Procedure: Evaluated construction project management by the Department of Education and at the district level over the Harlan County High School construction project. (Continued)

The RSMeans Construction Cost Data Does Not Reflect Total Project Cost: DFM calculates construction costs using the RSMeans publication from Reed Construction Data, Inc. The RSMeans publication provides estimates for square footage cost for new and renovated construction. It should be noted that RSMeans does not include architectural fees, bond sale costs, contingencies, and site acquisition costs and the data contained in the publication is one year old at time of publication.

Cost Estimates Are Not Adjusted For Inflation: RSMeans calculates the cost-per-square-foot data in three ways: one-fourth costs, median, and three-fourth costs. DFM utilizes the three-fourth cost factor. This calculation assumes that 75 percent of the sample projects had lower square footage costs and 25 percent had higher costs. The construction cost listed on district facility need assessment is the $\frac{3}{4}$ cost listed in the RSMeans publication. DFM does not make an adjustment for inflation even though the RSMeans data is one year old.

OEA's Recommendations Were Never Implemented: Without accurate and complete information, KDE cannot effectively plan to provide construction assistance to the school districts. As a result, policymakers and others who must make funding decisions about school construction projects do not have accurate information on which to base their decisions. OEA previously cited this problem in Research Report #332, "*A Review of the School Facilities Construction Commission*" and made recommendations to KDE that were never implemented.

Recommendations For Future Construction Projects

- KDE should implement recommendations made by OEA in Research Report #332, "*A Review of the School Facilities Construction Commission*."
- KBE and the General Assembly should determine the role of KDE in school construction projects and provide sufficient resources.
- The BG-1 document should be revised to provide clear, understandable information, and it should be noted what project costs are excluded.

Appendix A

Harlan County Demographics

Declining School Enrollment

The Average Daily Attendance (ADA) for the past 7 years for Harlan County School District is as follows:

2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
4517.0	4373.7	4299.9	4165.6	4074.6	4036.0	**3955.47

** ADA estimate for Harlan County as of September 19, 2007. Provided by KDE's Division of Data Management.

As shown in the above chart, the student enrollment for the Harlan County School District has continued to decline from year to year. This steady decline has made it problematic for the three high schools to provide quality services to students. One of the three high schools is in poor physical condition. Evarts High School, built in 1939, is a Category 5 School. KDE utilizes a building assessment code that references the relative building condition of the school. As a result of the declining enrollment, offering the curriculum required by KDE is becoming difficult for the Harlan County School District. In addition, to accommodate declining enrollment, Holmes Mill Elementary was closed in 1994. Loyall Elementary, Verda Elementary, and Cumberland Middle School were closed in 2000.

Declining Population in Harlan County

In addition to the declining school enrollment, the Harlan County population is also declining. As reflected below, it is projected that Harlan County will have an overall decline in population of 18.24 % by the year 2030. Whereas, Knox County, which has a new high school that was built in 2005, is projected to have an overall increase in population of 12.96% by the year 2030. Even though the surrounding counties of Bell, Leslie, and Letcher are showing decrease in their projected population, Harlan County is projected to have a bigger decline in population than the other surrounding counties.

Census Projections

County	2000	2005	2010	2015	2020	2025	2030	% +,-
Harlan County	33,202	31,974	30,910	30,035	29,136	28,185	27,145	-18.24%
Bell County	30,060	30,147	29,656	28,907	28,118	27,337	26,546	-13.51%
Clay County	24,556	24,230	24,423	25,192	25,761	26,277	26,695	+8.71%
Knott County	31,795	31,755	32,168	33,270	34,253	35,140	35,915	+12.96
Leslie County	12,401	12,176	11,736	11,478	11,235	10,987	10,735	-13.43
Letcher County	25,277	24,862	24,089	23,640	23,203	22,835	22,510	-10.95%
Perry County	29,390	29,930	29,820	29,892	29,894	29,832	29,649	+8.8%

Appendix B

**Harlan County High School
Category 5 Assistance Request
Submitted to SFCC on 8/30/2006**

**Harlan County High School
Estimated date of completion:
BG-1 Number for the project**

04-149**Project Information:**

Size in square feet of planned building	220,000	
Enrollment for planned building	1,300	
Cost of Project:		
Land purchase	\$ 1,075,000	
Professional fees	\$ 3,970,226	
Site development	\$ 1,801,569	
Construction cost	\$ 43,289,435	
Total Project Cost		\$ 50,136,230

Project Revenue Information:

District bonding capacity		
Local portion	\$ 18,392,928	
SFCC available offers	\$ 440,000	
Category 5 award	\$ 15,937,072	
Total bonding capacity available		\$ 34,770,000
District cash available for construction		
Restricted	\$ 2,428,006	
General Fund		
Total cash available		\$ 2,428,006
Total available from all sources for project		\$ 37,198,006
Additional funding needed to complete the project		\$ 12,938,224

Appendix B

**Harlan County High School
Remaining Cost to Finish the Project
Submitted to SFCC on 8/30/2006**

Description	Cost as Bid	Estimated Cost	Remarks
Sewage Treatment Plant	\$ 395,000.00	\$ 474,000.00	
Specialty Casework	\$ 297,000.00	\$ 356,400.00	
Food Service Equipment	\$ 505,000.00	\$ 606,000.00	
Bitumous Paving on Site	\$ 510,000.00	\$ 612,000.00	To be done as a change order to existing contract
Gymnasium Seating	\$ 570,000.00	\$ 684,000.00	
Vo.-Ag. Suite	\$ 580,000.00	\$ 696,000.00	
Auditorium Fit-Up	\$ 875,000.00	\$ 1,050,000.00	
Main Lobby Floor finish		\$ 150,000.00	
Water Tower		\$ 400,000.00	Separate Bid
Security Camera System		\$ 250,000.00	
Technology Wiring		\$ 500,000.00	Separate Bid
Interactive White Boards & Screens		\$ 245,000.00	
Basketball Goals		\$ 50,000.00	Direct Owner Purchase
Greenhouse		\$ 200,000.00	
Athletic Fields & Facilities		\$ 5,000,000.00	Separate Bid
Construction Cost		\$ 11,273,400.00	
Bonds, A/E, Legal, etc. @ 11%		\$ 1,240,074.00	
Contingencies on Separate Bids Only		\$ 329,750.00	
Division of Water Mitigation		\$ 95,000.00	
Total Remaining Cost to Finish The Project		\$ 12,938,224.00	

The aforementioned costs do not reflect change orders executed as of 4/07 for specialty casework or the partial auditorium fit-up of \$113,114 and \$457,107 for gymnasium seating less the end zone.

Note: Also, refer to the updated estimate of remaining cost to finish the project (as of 6/30/2007) presented at Appendix K – Page 48.

Appendix C**Estimated Project Cost – Initial BG-1****KDE approved the BG-1 for construction of the new high school on 11/11/03**SCHOOL DISTRICT: HARLAN COUNTYInitial: X Revised: _____ BG# 04-149**II PROPOSED PLAN TO FINANCE APPLICATION****A. Statement of Probable Cost:**

1. Total Construction Cost	<u>\$18,991,863</u>
2. Architectural/Engineer Fee	<u>\$983,544</u>
3. Construction Manager Fee	
4. Bond Discount	<u>\$460,000</u>
5. Fiscal Agent Fee	<u>\$100,000</u>
6. Contingencies	<u>\$949,593</u>
7. Site Acquisition	<u>\$1,500,000</u>
8. Equipment/Furnishings	
9. Equipment/Computers	
10. Technology Network System (KETS)	
11. Other Bank & Rating Fee	<u>\$15,000</u>
Total Estimated Cost	<u>\$23,000,000</u>

B. Funds Available:

1. SFCC Cash Requirement	
2. SFCC Bond Requirement	
3. SFCC Bond Sale	<u>\$4,500,000</u>
4. Local Bond Sale	<u>\$4,862,927</u>
5. Cash - General Fund	
6. Cash - Capital Outlay	
7. Cash - Building Fund	
8. Cash - Investment Earnings	
9. KETS	
10. Other Category 5 Legis	<u>\$13,637,073</u>
11. Other	
Total Funds Available	<u>\$23,000,000</u>

THE ABOVE INFORMATION IS A STATEMENT OF PROBABLE COST AND FUNDS AVAILABLE AND IS REQUIRED TO BE REVISED TO CORRESPOND TO ACTUAL BIDS RECEIVED PRIOR TO THE SIGNING OF CONSTRUCTION CONTRACTS.

TO BE COMPLETED ON INITIAL & REVISED APPLICATION: The signing of this financial document certifies the above stated funds are available and designated for this project during this fiscal year.

James W. Taylor
James W. Taylor

Superintendent

10-30-03 Date

Chairman

10/30/03 Date

ORIGINAL SIGNATURES REQUIRED

NOTE: Any district anticipating the financing of this and/or other projects in a combined school revenue Bond should discuss the financing with the Director of Division of Finance.

TO BE COMPLETED ON INITIAL APPLICATION:

This building project application is approved by the Division of Facilities Management indicating compliance with current facility plan or minor project under 702 KAR 1:010.

Comments: _____

Mark A. Ry
Mark A. Ry

Director/Branch Manager, Facilities Management

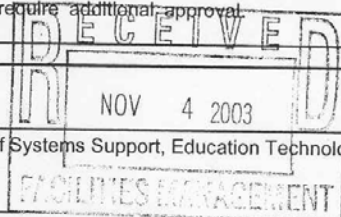
Date: 11/6/03

TO BE COMPLETED ON INITIAL APPLICATION WHEN KETS FUNDING IS INDICATED: Technology Approval: Application approval based on available KETS funding and conformance with approved district technology plan. Disbursement of these funds may require additional approval.

Comments: _____

Director, Division of Systems Support, Education Technology

Date: _____

**TO BE COMPLETED ON INITIAL & REVISED APPLICATION:**

Financial Approval: Tentative approval based upon financial information provided this office in support of projected cost.

Comments: PLEASE SUBMIT PLAN OF FINANCING

Stephen B. Young
Stephen B. Young

Director/Branch Manager, Division of Finance

Date: 11-10-03**TO BE COMPLETED ON INITIAL APPLICATION:**

This building project application is hereby approved according to the condition outlined in the application. You should now proceed in accordance with the attached checklist.

Comments: _____

Rebecca
Rebecca

Associate Commissioner, District Support Services

Date: 11/11/03

D. Program Space Square Footage

New Facility:

<u>1,300</u>	Capacity	<u>173,450</u>	Gross Square Footage
--------------	----------	----------------	----------------------

Additions or Renovations: (Please mark "R" after total program square footage entered if renovation.)

Number

Instructional:

Support Space:

1	General Office (GO)	200
2	Staff Office (SO)	300
4	Administrative Area (AD)	600
4	Guidance Office (GUO)	800
1	Guidance Reception (GUR)	200
1	Custodial Receiving (CR)	350
1	Site Based Office (SBO)	150
1	Site Based Conference (SBC)	375
1	Family Resource Area (FRA)	2,550
1	First Aid with Toilet (FA)	200
1	Records Room (RR)	150
5	Workroom (WR)	1,650
1	Kitchen (K)	4,700
1	Cafeteria (C)	7,800
	Mechanical Room (MR)	

Other:

Bay Bus Garage (BU) _____
 Central Office (CO) _____
 Board Room (BR) _____
 Central Storage Facility (CSF) _____

1	Other	SRO Office	150
2	Other	JROTC	3,000
	Other		
	Other		

TOTAL NET PROGRAM SPACE	117,940
-------------------------	---------

For Phased Projects:

Estimated Total Net Program Square Footage (Including all Phases)

Estimated Total Construction

Cost (Include all Phases)

Estimated Contract Date of

Final Phase

This BG-1 is for Phase _____ of _____ Phases

Appendix D**Revised BG-1 – As of 7/05/07**SCHOOL DISTRICT: Harlan County
High SchoolInitial: _____ Revised: XBG# 04-149**II. PROPOSED PLAN TO FINANCE APPLICATION****A. Statement of Probable Costs:**

1. Total Construction Cost	\$ 31,495,525
2. Architect/Engineer Fee	\$ 1,856,101
3. Construction Manger Fee	
4. Bond Discount	\$ 736,400
5. Fiscal Agent Fee	\$ 160,635
6. Contingencies	\$ 1,720,321
7. Site Acquisition	\$ 1,075,000
8. Equipment/Furnishings	\$ 1,229,171
9. Equipment/Computers	
10. Technology Network Sys. (KETS)	\$ 208,000
11. Other Site Prep.	\$ 1,742,637
bank and rating fee	\$ 35,500
Total Estimated Cost	\$ 40,259,290

B. Funds Available:

* 1. SFCC Cash Requirement	\$22,006
2. SFCC Bond Requirement	
* 3. SFCC Bond Sale	\$440,000
4. Local Bond Sale	\$15,147,928
5. General Fund Bond Sale	\$3,245,000
6. Cash - Old Projects	\$685,731
7. Cash - Building Fund	\$1,226,336
8. Cash - Investment Earnings	\$1,000,000
9. KETS	\$208,000
10. Other Cat. 5 Bonds	\$17,987,072
11. Other Food Service	\$297,217
Total Funds Available	\$40,259,290

THE ABOVE INFORMATION IS A STATEMENT OF PROBABLE COST AND FUNDS AVAILABLE AND IS REQUIRED TO BE REVISED TO
CORRESPOND TO ACTUAL BIDS RECEIVED PRIOR TO THE SIGNING OF CONSTRUCTION CONTRACTS.

TO BE COMPLETED ON INITIAL & REVISED APPLICATION: The signing of this financial document certifies the above
stated funds are available and designated for this project during this fiscal year.

James H. Taylor Superintendent
John A. Smith Chairman
ORIGINAL SIGNATURES REQUIRED

6/14/07 Date
6/14/07 Date

NOTE: Any district anticipating the financing of this and/or oth
discuss the financing with the Director of Division o

I school revenue Bond should

TO BE COMPLETED ON INITIAL APPLICATION:

This building project application is approved by the Division
of Facilities Management indicating compliance with curr
facility plan or minor project under 702 KAR 1:010.

Comments: _____

James W. Ryan
Director/Branch Manager, Facilities Management

Date: 7/2/07

Bond
Sale
7/10

COMPLETED ON INITIAL APPLICATION WHEN KETS

S INDICATED: Technology Approval: Application
ased on available KETS funding and conformance
red district technology plan. Disbursement of
s may require additional approval.

JUN 20 2007
Division of Systems Support, Education Technology

FACILITIES MANAGEMENT

TO BE COMPLETED ON INITIAL & REVISED APPLICA

Financial Approval: Tentative approval based upon financial
information provided this office in support of projected cost.

Comments: _____

Stephen B. King
Director/Branch Manager, Division of Finance

Date: 7-5-07

COMPLETED ON INITIAL APPLICATION:

THIS building project application is hereby approved according
to the condition outlined in the application. You should now
proceed in accordance with the attached checklist.

Comments: _____

Harry Stinson
Associate Commissioner, District Support Services

Date: 7/5/07

LOCAL BOARD ORDER AUTHORIZING PROJECT MUST BE ATTACHED ON INITIAL & REVISED APPLICATION

Appendix E

Category 5 Facilities Included in HB269

In HB 269, the General Assembly provided \$54,730,900 in new bonding authority to support “Category 5” school buildings (those in poorest condition) for Urgent Needs school construction funding, in accordance with KDE’s Building Assessment. This funding created an incentive to consolidate schools.

Projects for Category 5 Facilities

#	District Name	School Name	Approximate Enrollment	Condition	Project Amount	Available Cash	Bonding Potential	2000 SFCC Offer	Project Need
1	Adair Co.	New Knifley/Shepherd/Sparkville Elem.	600	Category 5	\$ 8,600,000.00	\$ 583,918.00	\$ 1,814,292.00	\$ 634,654.00	\$ 5,567,136.00
2	Butler Co.	New 4th/5th District Elementary	400	Category 5	\$ 6,500,000.00	\$ 9,858.00	\$ 372,372.00	\$ 329,352.00	\$ 5,788,418.00
3	Floyd Co. **	New Prestonsburg/Clark Elementary	500	Category 5	\$ 7,400,000.00	\$ 1,235,021.00	\$ 301,740.00	\$ 1,575,006.00	\$ 4,288,233.00
4	Hardin Co. ***	New Upton/Sonora Elementary	450	Category 5	\$ 7,200,000.00	\$ 1,520,463.00	\$ 2,485,042.00	\$ 1,117,896.00	\$ 2,076,599.00
5	Harlan Co.	New Cumberland/Evarts/Cawood High	1300	Category 5	\$ 23,000,000.00	\$ 1,245,480.00	\$ 8,117,448.00	\$ -	\$ 13,637,072.00
6	Livingston Co.	New Grand Rivers/Ledbetter/Smithland Elementary	600	Category 5	\$ 8,600,000.00	\$ 646,600.00	\$ 1,934,844.00	\$ 403,071.00	\$ 5,615,485.00
7	Morgan Co.	Cannel City Elementary Addition to New Morgan	600	Category 5	\$ 1,200,000.00	\$ -	\$ -	\$ -	\$ 1,200,000.00
8	Muhlenberg Co.	New Drakesboro, Hughes Kirk Elementary	600	Category 5	\$ 8,600,000.00	\$ -	\$ -	\$ -	\$ 8,600,000.00
9	McLean Co.	Sacramento Elementary, Calhoun Renovation	450	Category 5	\$ 2,500,000.00	\$ 15,303.00	\$ 1,358,112.00	\$ 525,865.00	\$ 600,720.00
10	Wayne Co.	New Lloyd Middle	400	Category 5	\$ 6,500,000.00	\$ 537.00	\$ 834,216.00	\$ 844,215.00	\$ 4,821,032.00
11	Whitley Co.	New Poplar Creek/Nevisdale Elementary	300	Category 5	\$ 5,700,000.00	\$ 809,596.00	\$ 1,999,488.00	\$ 354,714.00	\$ 2,536,202.00
	Totals				\$ 85,800,000.00	\$ 6,066,776.00	\$ 19,217,554.00	\$ 5,784,773.00	\$ 54,730,897.00

* The above projects have been considered by the Local Planning Committee and/or Local Board of Education but are not included in their current facility plan.

** Floyd County local bonding potential of \$2,940,000 already pledged to renovation of Stumbo Elementary.

*** Hardin County local bonding potential of \$11,895,206 already pledged to renovation of East & West Middle Schools.

Appendix F

Comparison With Other School Construction Projects – Part A (Information based on records maintained by KDE/DFM)

School	Cost to Date	Total Gross Space (Square Footage)	Student Capacity	Number of Change Orders	Size of Gym (Square Footage)	Cost Per Square Foot
Harlan County High School	BG-1 dated 7/5/2007 - \$40,259,290 (includes \$1,075,000 for site acquisition)	220,000	1300	13	38,103	\$183.00*
Bryan Station High School	BG-1 dated 2/26/2007 - \$44,280,711	276,700	1800	8	40,778 (Renovated)	\$160.03
Knox Central High School	BG-1 dated 5/31/2005 - \$21,390,113	124,291	1000	123	21,617	\$172.10
Belfry High School	BG-1 dated 5/16/2005 - \$32,133,390 (includes \$3,766,800 for site acquisition)	138,792	750	12	20,060	\$231.52
Letcher County High School	BG-1 dated 2/23/2004 - \$18,829,956	140,130	1000	87	16,000	\$134.37

* Based on the available data, the total cost of the Harlan County High School could range from \$48 million to \$53 million with total square footage cost from \$218.18 to \$240.90.

Appendix F (Continued)
Comparison With Other School Construction Projects – Part B
(Information based on records maintained by KDE/DFM)

Harlan County High School

Bid Package #1 – “Bridge Construction” 2 change orders (\$65,227.43)
Bid Package #2 – “Site Preparation” 7 change orders (\$924,899.13)
Bid Package #3 – “General Construction” 6 change orders * (\$1,146,104.75)
*includes purchases by HCBQE of \$808,165.40

Bryan Station High School

Bid Package #1 – “Demolition” 1 change order (additional time only)
Bid Package #2 -- ”Site Preparation” – 1 change order (-\$5,499.33)
Bid Package #3 – “General Construction” – 6 change orders \$1,161,304.35

Knox Central High School

Bid Package #1 -- 18 change orders \$316,340.98
Bid Package #2 -- 4 change orders \$245,380.65
Bid Package #4 – 7 change orders \$211,309.48
Bid Package #5 – 18 change orders \$68,867.08
Bid Package #6 – 4 change orders \$58,302.13
Bid Package #7 – 7 change orders \$13,165.00
Bid Package #8 – 2 change orders \$3,800.00
Bid Package #9 – 7 change orders (-\$81,666.00)
Bid Package #10 -- 4 change orders \$7,030.69
Bid Package #13 – 3 change orders (-\$9,798.00)
Bid Package #14 – 2 change orders \$5,800.00
Bid Package #18 – 2 change orders \$3,651.00
Bid Package #18C – 2 change orders \$17,400.00
Bid Package #20 – 30 change orders \$283,496.58
Bid Package #21 – 2 change orders \$2,920.00
Bid Package #22 – 8 change orders \$25,819.70
Bid Package #23 – 2 change orders \$10,014.08
Bid Package #24 – 1 change order \$2,665.00

Belfry High School

Bid Package #1 – “Site Development” 4 change orders \$561,912.48
Bid Package #2 – “General Construction” 8 change orders \$2,776,531.94

Letcher County High School

Bid Package #1 – 2 change orders \$14,539.00
Bid Package #2 – 2 change orders \$61,000.00
Bid Package #3 – 18 change orders \$197,308.51
Bid Package #4 – 6 change orders (\$6,318.58)
Bid Package #5 – 6 change orders \$9,659.94
Bid Package #6 – 4 change orders \$61,162.00
Bid Package #7 – 2 change orders (\$4,852.00)
Bid Package #8 – 8 change orders \$5,084.53
Bid Package #10 – 1 change order \$1,890.00
Bid Package #11 – 3 change orders \$31,237.36
Bid Package #12 – 8 change orders \$4,937.90
Bid Package #12A – 1 change order \$960.00
Bid Package #13 – 1 change order \$1,166.00
Bid Package #16 – 1 change order \$850.00
Bid Package #21 – 5 change orders \$18,205.00
Bid Package #23A – 19 change orders \$319,034.60

The BG-4's, which certifies that the project is closed, on the “construction” phase of the project have not been submitted to DFM on any of the school projects listed above.

Appendix G

Harlan County High School Construction Project Compliance Checklist

Procedure: Reviewed laws and regulations governing School Facilities Construction.

702 KAR 4:160 Capital Construction Process

	HCBOE		KDE	
	Criteria Met	Criteria Not Met	Criteria Met	Criteria Not Met
Section 2. Construction Project Application. (1) The board shall submit an application on form BG-1 to the division for approval of a proposed construction project.	X			
(2) An application shall be submitted for any project that is:				
(a) Funded by Support Education Excellence in Kentucky (SEEK) capital outlay, Facility Support Program of Kentucky (FSPK) funds as provided by KRS 157.620, School Facilities Construction Commission (SFCC) funds, or building funds as provided by KRS 160.476; or	X			
(b) Proposing construction of a new building, addition, or alteration of an existing building, which requires design by an architect for a building or building system.	X			
(3) To initiate a project which is listed in its facility plan or a minor project permitted in subsection (9) of this section, a vote by the board approving the project shall be required.	X			
(4) When SFCC funds are included in the financing plan, projects shall be selected in prioritized order. If no SFCC funding is included in the financing plan, the board may select a project on its facility plan without regard to priority number.	X			
(5) If a project exceeds \$250,000, the superintendent shall submit the BG-1 to the division, and shall review the project scope and financing plan with the division.	X			
(6) The BG-1 shall be accompanied by:				
(a) A copy of the board's action, either by official board minutes or an unofficial excerpt signed by the board secretary verifying authenticity, approving the application; and, authenticity, approving the application; and	X			
(b) A narrative justification of the construction project selection, including its priority over other projects relative to district goals and maximization of funding and benefits to students.	X			
(7) Within sixty (60) days of receiving the completed application documents, the BG-1 shall be approved by the division, if justified pursuant to the following criteria:				
(a) Proposed project is on the facility plan or conforms to minor project criteria in subsection (9) of this section;				X
(b) SFCC funding does not exceed the SFCC maximum budget established for the project;				X
(c) Application has original signatures;				X
(d) A board order; and				X
(e) The narrative justification.				X
(8) The Division of Finance, KDE, may give tentative approval based on a review of the board's ability to support the financing plan for the proposed construction budget.				X

Sections 2 (9), (10), (11), and (12) are not applicable to this project.

Section 3. Local Board Oversight Responsibilities. (1) Construction files and records shall be maintained by the superintendent in the central office and organized and accessible for review. Construction files and records include:

(a) Board actions;	X
(b) Proposals;	X
(c) Contracts;	X
(d) Correspondence; and	X
(e) Financial documents.	X

Appendix G (Continued)**702 KAR 4:160 Capital Construction Process**

	HCBOE		KDE	
	Criteria Met	Criteria Not Met	Criteria Met	Criteria Not Met
(2) If the architect or the CM determines additional funding is justified or a reduction of physical scope of the project is needed, the local board may approve the action if it believes it is justified and forward it to the division.	X			
(3) During the planning and bidding phase of the construction project, the board shall:				
(a) Review bidding documents for compliance with statutes and administrative regulations, with particular attention to sales and use tax exemption when purchasing materials direct;	X			
(b) Comply with all submission requirements resulting from the completed plans and specification review by the division;	X			
(c) Not advertise before receipt of written approval from the division;	X			
(d) Advertise in the newspaper having the largest circulation in the school district the following number of days prior to the date established to receive bids:				
<i>Bid Package #1</i>	X			
<i>Bid Package #2</i>	X			
<i>Bid Package #3:</i>				
<i>Bid Proposal #1</i>	X			
<i>Bid Proposal #2</i>			X	
1. \$1,000,000 or less project, a minimum of seven (7) days and a maximum of twenty-one (21) days; or				
2. A project in excess of \$1,000,000, a minimum of twenty-one (21) days;				
<i>Bid Package #1</i>	X			
<i>Bid Package #2</i>	X			
<i>Bid Package #3:</i>				
<i>Bid Proposal #1</i>	X			
<i>Bid Proposal #2</i>			X	
(e) Hold the bid opening:				
1. In a location accessible to the public;				
2. Between 10 a.m. and 3 p.m. (local time); and				
3. Monday through Friday, excluding holidays;				
<i>Bid Package #1</i>	X			
<i>Bid Package #2</i>	X			
<i>Bid Package #3:</i>				
<i>Bid Proposal #1</i>	X			
<i>Bid Proposal #2</i>			X	
(f) Accept the architect's and CM's evaluation of the bids and approve or reject their recommendations;				
<i>Bid Package #1</i>	X			
<i>Bid Package #2</i>	X			
<i>Bid Package #3</i>				
<i>Bid Proposal #1</i>	X			
<i>Bid Proposal #2</i>	X			
(g) Review any bid package, which receives only one (1) bid to ensure specifications allowed open competition. The board may approve the contract if the bid does not exceed 110 percent of the bid estimate and is within the budget for the project;			X	
h) Ensure the CM completes the KDE noncollusion affidavit;	N/A			
(i) Hold possession of original bidding documents;	X			
(j) Approve and submit the successful bidders' documents to the division for review and approval of the proposed contract(s) and the financial plan; and	X			

Appendix G (Continued)**702 KAR 4:160 Capital Construction Process**

	HCBOE		KDE	
	Criteria Met	Criteria Not Met	Criteria Met	Criteria Not Met
(k) Have in its possession prior to executing the construction contract:				
1. Contractor's performance and payment bond;	X			
2. Certificate of required insurance;	X			
3. Written approval from the division; and	X			
4. Bids accepted for the bond sale, when applicable.	X			
(4) During the construction administration of the project, the board shall:				
(a) Name the superintendent to speak on behalf of the board as owner in the contract documents and set the parameters of that responsibility;	X			
(b) Seek the superintendent's recommendation relative to proposed board actions;	X			
(c) Approve all expenditures from the construction account;	X			
(d) Seek SFCC approval of expenditures as applicable;	N/A			
(e) At least once per month receive and review written inspection and progress reports provided by the architect;		X		
(f) Review the need for changes to the contract;	X			
(g) Assign partial or full responsibility to the proper party if additional costs are due to an oversight or omission;	N/A			
(h) Monitor the administration of the project by its architect and CM to ensure no prepayment is made for their services;	X			
(i) After notifying the division, hire a professional services firm experienced in architectural, engineering, accounting, or construction management services to provide an audit of the construction project if the board suspects nonfeasance or malfeasance;	N/A			
(j) Secure all required inspections and close out documents for submittal to the appropriate agencies;	N/A			
(k) Receive an occupancy permit from the Department of Housing, Buildings and Construction prior to occupying the facility;	N/A			
(l) Retain a minimum five (5) percent retainage of the construction contract until the division has issued a written approval either to reduce the contract retainage or to make final payment on the contract;	X			
(m) Require the superintendent to participate in the year-end warranty inspection and report results of the inspection to the board;	N/A			
(n) Contact the contractor's bonding company each month if the contractor is more than two (2) weeks behind schedule or is not performing in accordance with the contract; and	N/A			
o) Not hire additional architectural services outside the architect's contract without approval from the division.	N/A			
(5) If federal funds or federal agencies are involved, the board may request approval from the chief state school officer to waive or condense procedures to expedite the construction design process.	N/A			
(6) If a lien is filed with a court and the board is given notice of the lien, the board shall stop partial payments on the contract and contact the division. Payments may begin after:	N/A			
(a) The lien has been released;	N/A			
(b) The division has approved a payment schedule which provides for retaining the lien amount being contested; or	N/A			
(c) The division has approved a payment schedule after a surety bond has been provided to pay the lien.	N/A			

Appendix G (Continued)

702 KAR 4:160 Capital Construction Process

	HCBOE		KDE	
	Criteria Met	Criteria Not Met	Criteria Met	Criteria Not Met
Section 4. Architectural Services. (1) The board and architect shall negotiate a contract for services required. The board shall either advertise for architectural services or select a minimum of three (3) architectural firms which shall be evaluated through the request for proposal (RFP) process. Advertisement or RFP evaluation of three (3) firms is not required if the project is estimated at less than \$500,000 or is the continuation of phased construction at the same site.	X			
(2) The architectural services shall be negotiated using the following documents:				
(a) KDE Architect RFP;	N/A			
(b) AIA B151-1997, Abbreviated Standard Form of Agreement Between Owner and Architect, or AIA B141/CMA-1992, Standard Form of Agreement Between Owner and Architect, Construction Manager - Adviser Edition, with KDE amendments;	X			
(c) KDE noncollusion affidavit; and	X			
(d) KDE architect fee guideline, or SFCC fee maximum.	X			
(3) A letter of agreement stating services, terms, and conditions, which has been approved by the board shall be acceptable in lieu of the AIA B151 for projects with an estimated construction cost of less than \$25,000.	N/A			
(4) The division shall review and approve the proposed architect's contract based on the following criteria:				
(a) Copy of the board action approving the terms of the proposed contract;			X	
(b) Scope and fee conforms to BG-1; and			X	
(c) Submittal of required forms.			X	
(5) The division shall advise the board of:				
(a) Apparent deficiencies in completion of the contract;			X	
(b) Discrepancies related to the scope of work and anticipated cost approved on the BG-1;			X	
(c) Compliance of fee to fee schedule; and			X	
(d) Concerns regarding modifications to the contract.			X	
(6) The architect shall:				
(a) Provide on-site visitation and shall report on the construction project to the board;	X			
(b) Certify, to the best of his ability, professional judgment, and with due diligence, that all phases of the project have been completed in conformance with the approved plans and specifications and any authorized changes;	X			
(c) Provide professional liability insurance including errors and omission insurance in the following minimum amounts:				
1. Projects less than \$1,000,000 require \$250,000 insurance with a five (5) percent maximum deductible;				
2. Projects from \$1,000,000 to \$10,000,000 require \$500,000 insurance with a maximum five (5) percent deductible; and				
3. Projects \$10,000,000 or greater require \$1,000,000 insurance with a maximum five (5) percent deductible;	X			
(d) Require his consultants to retain professional liability insurance including errors and omission insurance in the minimum amount of \$250,000 with a maximum five (5) percent deductible;	X			
(e) Provide copies of certificates of insurance to the division;			X	
(f) Assist in preparing the bid advertisement for the board;		X		
(g) List projects estimated in excess of \$1,000,000 with a minimum of two (2) Kentucky construction reporting services;			X	
(h) Submit to the board a written report which includes a status of the project, dates and times architect was on site, conditions of the job, problems, delays, and concerns at least monthly after construction begins;		X		

Appendix G (Continued)

702 KAR 4:160 Capital Construction Process

	HCBOE		KDE	
	Criteria Met	Criteria Not Met	Criteria Met	Criteria Not Met
(i) Request payment of construction administration phase fee at the same proportionate percentage as the construction's completion with five (5) percent of it being retained by the board until the approval of final payment on construction;	X			
(j) Request approval by the board for any reimbursement or additional service prior to the service being rendered or expenditure being made;	X			
(k) When requesting reimbursements or additional service fees, provide a detailed listing of each charge on the payment request;	X			
(l) Request additional payment for construction time or services, which extend beyond the scheduled completion date only if the owner is successful in receiving liquidated damages. Conditions to receive payments shall be:	N/A			
1. Additional costs were incurred through no fault of the architectural firm and are documented due to the delay of the contractor; and	N/A			
2. The pro rata share shall be determined by the board as a ratio of validated architect's damages to the total of all documented damages;	N/A			
(m) Utilize his consultants listed on the contract form for design, construction administration and observation of the work;	N/A			
(n) Pay his consultants the same percentage proportion of their fee as he has received from the board;	N/A			
(o) Pay his consultants eighty (80) percent of the architect's fee based on the construction cost of the consultant's work. If the architect's fee is a lump sum, the consultant shall receive the same proportionate amount;	N/A			
(p) If a joint venture, list on the contract form, the prime architectural firm accountable to the board and provide the board with a copy of the joint venture contract indicating each party's responsibilities and fees;	N/A			
(q) Provide independent contract administration over construction contracts awarded to the project's CM; and	N/A			
© Not include in the construction cost calculation change orders to the contract that the board has not requested. Changes to the contract requested by the board that decrease the construction cost shall be calculated at the hourly billing rate schedule or basic fee percentage, whichever is less.	N/A			
(7) The board shall provide oversight of the architectural services in the following manner:				
(a) The architect's proposed contract shall be reviewed by the board's attorney for compliance with the law; and	X			
(b) The board shall submit to the division for approval:				
1. The proposed architect contract and completed RFP;	X			
2. A copy of the board order approving the contract;	X			
3. A narrative of the evaluation process; and	X			
4. A copy of the certificate(s) of professional liability insurance.	X			
Section 5 is not applicable to this project.				
Section 6. Plans and Specifications. (1) After approval of the BG-1 application by the division, the division shall provide a procedural checklist to the board that indicates required submissions for the project.			X	
(a) The architect shall prepare a schematic plan of the proposed construction from written educational program specifications supplied by the board checklist to the board that indicates required submissions for the project.			X	
(b) The schematic plans and a copy of the educational program specifications, approved by board action with a copy of the minutes, shall be submitted by the board to the division for review and approval.			X	
(c) The division shall review and approve the schematic plan submittal based on:				

Appendix G (Continued)

702 KAR 4:160 Capital Construction Process

	HCBOE		KDE	
	Criteria Met	Criteria Not Met	Criteria Met	Criteria Not Met
1. Site plan: proper siting of the building footprint provides appropriate access, vehicular and pedestrian circulation, separation of bus loading area from other vehicular traffic, parking, service, play and athletic areas, utility connections and drainage;			X	
2. Floor plan: number, type, and size of the planned spaces, including support spaces, agree with the programmed spaces listed on the BG-1, the educational specifications, and are in compliance with 702 KAR 1:001 and 702 KAR 4:170;			X	
3. Functional aspects: review of the distribution of functions, or program space and the appropriateness for the needs of the facility;			X	
4. Building efficiency: review of the percent of net program area to gross building area to meet or exceed the guidelines of 702 KAR 1:001;			X	
5. Budget: review of the construction cost (gross area multiplied by the cost per square foot) in relation to the BG-1. If the calculated construction cost exceeds BG-1 cost, an increase in the budget or a decrease in the physical scope of the project shall be approved by the board.			X	
(2) After written approval of the schematic plans is received from the division, the architect shall prepare the design development plans.				
(a) The board shall submit to the division for review and approval:				
1. Design development plans;			X	
2. Board order approving plans;			X	
3. BG #2; and			X	
4. BG #3.			X	
(b) The division shall review and approve design development plans submittals based on:				
1. Site plan: proper siting of the building with respect to vehicular and pedestrian circulation, separation of bus loading area, student play areas, athletic fields, utility construction and site drainage, with details appropriately developed;			X	
2. Floor plan: number, type, and size of the planned spaces consistent with the schematic plan;			X	
3. Enlarged plans and details: appropriate to describe the design intention;			X	
4. Building efficiency: the percent of net program area to gross building area meets or exceeds the guidelines of 702 KAR 1:001;			X	
5. Budget: the probable construction cost, BG #3, is within the approved BG-1 budget. If the probable construction cost exceeds the BG-1 budget, an increase in the budget or a decrease in the physical scope of the project shall be approved by the board;			X	
6. BG #2 form is properly completed and conforms to the educational program specifications; and			X	
7. Design development plans incorporate all previous schematic design review comments.			X	
(3) After written approval of design development plans is received from the division, the completed plans and specifications and project manual shall be prepared by the architect and CM for bidding.			X	
(a) The board shall submit to the division for review and approval:				
1. Completed plans and specifications and project manual, if applicable;	X			
2. Board order approving plans and specifications;	X			
3. Revised BG #3; and	X			
4. Proof of submission of completed plans to other agencies having jurisdiction.	X			
(b) The division shall review and approve the completed plans and specifications and project manual submittals based on:				

Appendix G (Continued)**702 KAR 4:160 Capital Construction Process**

	HCBOE		KDE	
	Criteria Met	Criteria Not Met	Criteria Met	Criteria Not Met
1. Compliance with 702 KAR 4:170, with special concern to reduce change orders during construction;			X	
2. Each drawing and cover of the project manual has the architect's seal and signature affixed;			X	
3. Documents are of sufficient detail and complexity that they may be used:				
a. To obtain a building permit;			X	
b. As instruments in the competitive bidding process; and			X	
c. By a general contractor to construct the project;			X	
4. BG-3 does not exceed by ten (10) percent the approved BG-1 budget;			X	
5. Deed, certificate of title insurance to the property, deed of easements for all utilities, and proof of road and utility access for the project are filed with the division;			X	
6. Proposed floor elevation is a minimum of one (1) foot above the 100-year flood plain elevation for new construction and no state funds are proposed for renovation below the 100-year flood plain elevation;			X	
7. Construction documents include the following forms to the extent applicable with KDE amendments appropriate for general construction or construction management:				
a. AIA A201, General Conditions;			X	
b. AIA A201/CMA, General Conditions with CM;			N/A	
c. AIA A101, Owner-Contractor Contract;			X	
d. AIA A101/CMA, Owner-Contractor Contract with CM;			N/A	
e. AIA A701, Instructions to Bidders;			X	
f. KDE Form of Proposal;			X	
g. AIA A310, Bid Bond;			X	
h. AIA A312, Performance and Payment Bond;			X	
i. AIA G702, Application for Payment;			X	
j. AIA G702/CMA, Application for Payment with CM;			N/A	
k. AIA G701, Change Order;			X	
l. AIA G701/CMA, Change Order with CM;			N/A	
m. AIA G704, Certificate of Substantial Completion;			N/A	
n. AIA G704/CMA, Certificate of Substantial Completion with CM;			N/A	
o. AIA G706, Contractors' Affidavit of Payment of Debts and Claims;			N/A	
p. AIA G706A, Contractors' Affidavit of Release of Liens;			N/A	
q. AIA G707, Consent of Surety to Final Payment; and			N/A	
r. AIA G707A, Consent of Surety to Reduction in or Partial Release of Retainage.			N/A	
8. A 100 percent performance and payment bond is required for any contract in excess of \$25,000 and on all contracts using CM process from an insurance firm authorized to do business in Kentucky. The insurance firm shall be listed in and the performance and payment bond shall be written within the terms and limits established in 58 Federal Register, P. 35778, 1993.			N/A	
9. Contractor(s) are to carry all insurance required by law and by contract to hold the board safe from loss until the project is completed or an occupancy permit is received by the board. In the event the board elects to carry a portion of the necessary insurance, notification shall be given to the architect and CM and written into the bidding documents; and			X	

Appendix G (Continued)**702 KAR 4:160 Capital Construction Process**

	HCBOE		KDE	
	Criteria Met	Criteria Not Met	Criteria Met	Criteria Not Met
10. Notification of other state and local agencies having jurisdiction, including:				
(a) Department of Housing, Buildings and Construction;			X	
(b) Division of Code Enforcement;			X	
(c) Division of Plumbing;			X	
(d) Division of Water;			X	
(e) Division of Air Quality;			X	
(f) Local health department; and			X	
(g) Local building inspector.			X	
(4) The board shall receive written approval of the construction bidding documents and authorization to bid from the division prior to advertisement for bids. (Bid Package #3, proposal #2		X		
(5) Performance specification procedures may be used by the board for proposed capital construction projects. The proposed performance specifications as prepared by the board shall be approved in writing by the division prior to advertisement for bids.	N/A			
(6) Leases, lease purchases, or leases with an option to purchase by a board for fixed equipment, capital construction, or alterations to existing buildings and building systems shall require the submittal of plans and specifications and lease documents to the division for review and approval.	N/A			
Section 7. Construction Bidding and Contracting. (1) A minimum of ten (10) working days prior to the scheduled bond sale date, the board shall submit to KDE for review and approval:				
(a) To the division:				
1. Bid tabulation(s);	X			
2. Bid security(ies);	X			
3. Proposal form of successful bidder(s);	X			
4. Proposed contract(s) or purchase order(s) (unsigned);	X			
5. Revised financial form (BG-1, page 3) to coincide with proposed construction costs;	X			
6. Architect's written recommendation regarding award of contract; and	X			
(b) To the Division of Finance, KDE:				
1. Preliminary official statement;	X			
2. Notice of bond sale; and	X			
3. Official terms and conditions.	X			
(2) If the submitted documents are not in an approvable form at least five (5) working days before the scheduled bond sale, the sale date shall be postponed.	N/A			
(3) The board shall contract with a fiscal agent to assist in meeting all reporting, filing, and selling requirements for securing the financial approval of KDE when school revenue bonds are proposed for sale.	X			
(4)(a) Bids for school revenue bond sales shall be received in Frankfort, Kentucky, at:				

Appendix G (Continued)**702 KAR 4:160 Capital Construction Process**

	HCBOE		KDE	
	Criteria Met	Criteria Not Met	Criteria Met	Criteria Not Met
1. Kentucky Department of Education, Office of District Support Services, 15th Floor, Capital Plaza Tower; or	X			
2. SFCC, Capital Annex, if SFCC funds are involved.	X			
(b) A KDE or SFCC staff member shall be present to receive the bids.				
(c) Bids shall be delivered by mail, in person, by telephone, or by facsimile (fax) machine. If the apparent winning bid is telephoned, the bid shall be reaffirmed by fax within thirty (30) minutes after the bid opening	X			
(5) The division shall approve a proposed construction contract based on:				
(a) Submission of tabulation of bids, form of proposal, bid security and proposed contract;			X	
(b) Board order indicating low bid was accepted or written justification provided where other than low bid is proposed;			X	
(c) Proposed construction contract is within approved budget; and			X	
(d) Form of proposal is completed in accordance with the instructions to bidders.			X	
(6)(a) Any discrepancies between the proposed contract and bidding documents shall be remedied prior to approval.				N/A
(b) The board's desire to waive irregularities and informalities as to a bid shall be reviewed and final judgment made by the division prior to approval of the contract and financing plan.				N/A
(c) Approval of the proposed contract by division shall not indicate the contract is the best or the most reasonable.			X	
(7) The Division of Finance, KDE, shall issue the final approval for the financing plan, authorize the bond sale, and prepare the letter for the chief state school officer's approval.			X	
(8) No negotiation of the bid price shall be allowed, except in accordance with KRS 45A.375 for those districts under the Model Procurement Code.			X	
(9) Construction account expenditures that are subject to bidding shall be approved by the division, except for expenditures for moveable equipment.			X	
(10) The board shall submit to the division:				
(a) Copy of the executed contract(s) and purchase order(s);	X			
(b) Insurance certificate(s); and	X			
(c) Copy of the 100 percent performance and payment bond(s).	X			
Section 8. Contract Change Orders. (1)(a) All change orders shall be submitted to the division, and shall be accompanied with the following:				
1. Copy of local board action approving the change order;	X			
2. Property completed KDE Change Order Supplemental Information Form; and	X			
3. Cost breakdown which separates labor, material, profit and overhead. If unit prices are utilized, this cost breakdown shall not be necessary.	X			
(b) Changes in the contract which do not substantially alter the nature of the contract, or may be regarded as incidental to or which relate to an integral part of the original contract and specifications, may be approved by the division.	X			

Appendix G (Continued)**702 KAR 4:160 Capital Construction Process**

	HCBOE		KDE	
	Criteria Met	Criteria Not Met	Criteria Met	Criteria Not Met
(c) A copy of any change order using the forms AIA G701 or AIA G701/CMA issued in connection with the project shall be signed by the appropriate parties as a recommendation and shall be subject to approval by the board.	X			
(2) Any additive or deductive change order proposal in excess of \$5,000 shall be subject to approval by the division prior to execution.			X	
(3) Approval of proposed change orders over \$5,000 shall be based upon:				
(a) Completed supplemental information form, board order, and cost breakdown;			X	
(b) Cost is calculated according to contract unit prices or alternative method documentation is provided to support cost;			X	
(c) The change order scope and cost are considered within the norm based upon the information submitted; and			X	
(d) Cumulative cost of contract and all change orders are within the approved budget.			X	
(4) The division approval shall not indicate the change order cost is the best cost or the requested change order is the most appropriate action.			X	
Section 9. Construction Contract Retainage. (1)(a) The board shall retain ten (10) percent from each application for payment up to fifty (50) percent completion of the work, then, provided the work is on schedule and satisfactory, and upon written request of the contractor together with written consent of surety and the recommendation of the architect, the board may approve a reduction in retainage to five (5) percent of the current contract sum	X			
(b) No part of the five (5) percent retainage shall be paid until the division has made a final on-site review of completed instructional space and has provided written approval for final payment or further reduction in retainage.			X	
(c) After substantial completion of the work, if reasons for reduction of the retainage are certified in writing by the architect and approved by the board, a reduction to a lump sum amount less than the five (5) percent retainage may be approved by the division when deemed reasonable. The minimum lump sum amount shall be twice the estimated cost to correct deficient or incomplete work.				N/A
(d) The board shall request a final on-site review by the division after approval of the architect's certification of substantial completion.	N/A			
(2) The investment earnings resulting from any agreement entered into by a board involving the construction account, including the construction contract retainage for an approved project, shall be invested in such a manner that any additional income from the investment shall accrue only to the board.	X			
Section 10. Construction Dispute Resolution. (1) Unresolved claims between parties arising out of or relating to any contract subject				
to this administrative regulation shall not utilize arbitration or the American Arbitration Association unless agreed to by all parties.	N/A			
(2) Prior to the institution of legal proceedings, unresolved claims arising out of or relating to any contract shall be submitted to mediation by the Mediation Center of Kentucky, 271 West Short Street, Suite 200, Lexington, Kentucky or any other nonprofit mediation council approved by the division.	N/A			
(3) Mediation may be initiated by written request filed by any party.	N/A			

Appendix G (Continued)

702 KAR 4:160 Capital Construction Process

	HCBOE		KDE	
	Criteria Met	Criteria Not Met	Criteria Met	Criteria Not Met
Section 11. Construction Contract Close-out Process.				
(1) The architect shall furnish the board a form BG #4 with applicable information requesting final approval.				
(2)(a) If the board agrees the construction contract is complete, it shall approve the BG #4 and forward it to the division for approval of the final payment.	N/A			
(b) If the board does not agree that the construction contract is complete, a letter to the division shall be issued to indicate those items in contention or requiring completion.	N/A			
(3) Written approval by the division authorizing full payment of the contract shall be given when the completed BG #4 form is approved.			X	
<i>Bid Package #1</i>	X			
<i>Bid Package #2</i>	X			
<i>Bid Package #3</i>	N/A			
Section 12. Penalties for Malfeasance or Nonfeasance. (1) A determination by the board or the division of malfeasance or nonfeasance by the architect or CM shall be forwarded to the chief state school officer.	N/A			
(2) The chief state school officer may make a recommendation to the KBE to determine that the offending firm is ineligible to provide professional services on school construction projects for a period not to exceed five (5) years.	N/A			
(3) The KBE may prescribe alternative penalties.	N/A			
(4) If the principals of the offending firm become associated with another firm(s) during the penalty period, upon recommendation by the chief state school officer the KBE may determine that the penalty invoked shall also apply to that firm	N/A			

Section 13 is a listing of all documents that may be used in the construction process.

Appendix H
Harlan County High School Construction Project
Timeline of Events

Procedure: Evaluated construction project management by the Department of Education and at the district level over the Harlan County High School construction project.

In evaluating construction project management, the auditor reviewed meeting minutes of the HCBOE; meeting minutes of the Local Facilities Planning Committee; and, documentation provided by KDE. Excerpts from the aforementioned sources are summarized in the timeline presented below.

Date of Action:	Board Decision:
December 18, 2000	The Local Planning Committee approved (10-1) a plan for a consolidated high school.
April 17, 2001	HCBOE rejected (3-2) the plan for a consolidated high school.
September 9, 2002	A new planning committee was formed.
February 26, 2003	Local Planning Committee failed to reach the two-thirds majority.
March 3, 2003	Local Planning Committee failed to reach the two-thirds majority.
March 14, 2003	Local Planning Committee voted (10-3-1) to accept \$13.6 million from the Urgent Needs School Trust Fund to build a consolidated high school.
March 14, 2003	The Local Planning Committee voted to amend the facility plan and accept the offer of \$13.6 million to include a new central high school.
March 26, 2003	The Local Planning Committee voted 9 to 7 in favor of considering the facility plan.
April 21, 2003	The HCBOE moved to accept the proposed facilities plan as adopted by a 9-7 vote of the Local Planning Committee calling for one high school and other buildings and renovations as described in the proposed plan.
	The HCBOE approved a public hearing to be scheduled on May 6, 2003 at 6:30 p.m. to be held at the James A. Cawood High School. If the proposed plan is then approved by the Board vote, it was also moved that the HCBOE request a waiver from the State Board of Education to accept a simple majority of the vote in lieu of a two-thirds majority as required by legislation as it applies to the facility plan under KRS 156.160 section 2(a).
May 6, 2003	The HCBOE moved to accept the proposed facility plan as adopted by a 9-7 vote of the Local Planning Committee calling for one high school and other buildings and renovations as described in the proposed plan and that a copy of the proposed plan be forwarded to KDE with their recommendation of approval. It was also moved that the board request a waiver from the Kentucky State Board of Education to accept a simple majority of the vote in lieu of a two-thirds majority vote required by the regulation as it applies to the facility plan under KRS 156.160, section 2(a) and further move that the Superintendent be empowered to write a letter to the State Board of Education requesting the waiver on behalf of the HCBOE.

Appendix H (Continued)

Date of Action:	Board Decision:
June 5, 2003	KBE waived the two-thirds Local Planning Committee majority vote requisite stipulated by KAR 1:001-Kentucky School Facilities Planning Manual for the HCBOE and approved the Harlan County New District Facility Plan.
June 17, 2003	Approval was given to advertise for architect and / or engineer proposals for the new county high school.
June 25, 2003	HCBOE advertised a request for proposal for architect services to build a new high school (per Board Minutes 9-30-03).
July 28, 2003	HCBOE went into executive session to interview architects for the new school.
August 12, 2003	HCBOE will re-interview the architects Clotfelter-Samokar, EOP Architects, Richardson Architects and Ross-Tarrant on August 26 by conducting a brief question and answer session with each firm.
August 26, 2003	The board moved into executive session to conduct interviews with the following architect firms: Clotfelter-Samokar, EOP Architects, Richardson Associates, Ross-Tarrant Architects.
August 28, 2003	Clotfelter-Samokar's letter to HCBOE states they will provide pre-contractual services and that a contract will not be entered into until after approval of the BG-1's by HCBOE and KDE.
September 30, 2003	HCBOE advertised a request for proposal for architect services to build a new high school on June 25, 2003 – Clotfelter-Samokar were hired on September 30, 2003 and motion made that directed the superintendent and board attorney to develop a contract of employment.
October 30, 2003	HCBOE approved submission of a BG-1 to KDE for construction of new high school.
November 3, 2003	BG-1 submitted by Clotfelter-Samokar for construction of new high school
November 26, 2003	KDE informed the Superintendent of Harlan County Schools that the BG-1 for the new high school had been tentatively approved.
December 5, 2003	KDE advised the Superintendent that the proposed agreement between the HCBOE and Clotfelter-Samokar was acceptable and that HCBOE could execute the contract.
December 11, 2003	HCBOE moved to accept the contract with Clotfelter-Samokar for architectural services, HCBOE moved to allow the Superintendent to enter into option to purchase land for the new high school subject to final approval of the HCBOE at the time of the actual purchase and chairman to sign the contract at that time.
	HCBOE gave approval to enter into an agreement for geotechnical exploration (core samples) at the proposed site for the new consolidated high school.
December 15, 2003	SFCC made an official offer of assistance to the HCBOE for \$13,637,072 in bonds for the construction of the project known as the New Cumberland/Evarts/Cawood High School Project.

Appendix H (Continued)

Date of Action:	Board Decision:
January 22, 2004	HCBOE voted to accept the offer of assistance of \$13,673.072 from SFCC to be used in the construction of the new consolidated high school.
March 12, 2004	HCBOE voted to request approval under 702 KAR 4:050, to exceed the costs of site acquisition and development by more than ten (10) percent of the total cost of the project designated as the new Harlan County High School.
March 12, 2004	HCBOE voted to enter into \$5,000 option to purchase the Howard property at Rosspoint for a total amount of \$975,000 pending approval from KDE. After receiving approval, complete the purchase and empower the board chairman to sign all documents relating to the purchase of property.
March 15, 2004	HCBOE voted to name the new high school Harlan County High School.
March 17, 2004	HCBOE voted to hire an additional attorney for the lawsuit filed in regard to the facilities matters at a rate of \$100.00 per hour plus expenses and that he would also be allowed to help with other cases which might occur in regard to the facilities plan.
April 7-8, 2004	KDE advised HCBOE that KBE approved the purchase of property for the new high school at its April meeting.
April 12, 2004	Superintendent gave the board a graph of the declining district enrollment.
April 12, 2004	HCBOE gave approval to commit \$1,000,000 to the extension of the sewer line from Baxter to the new proposed new high school site as part of the preparation work and cooperate with all other agencies involved and final approval from KDE.
May 10, 2004	HCBOE gave approval to accept the drawings and advertise for bids at the new high school for the replacement bridge upon approval from KDE.
May 12, 2004	KDE gave approval to advertise for bids.
June 14, 2004	Architect recommended award on contract be given to Kay & Kay Contracting for the bid amount of \$669,000 for bridge replacement. HCBOE gave approval to the low bid submitted in the amount of \$669,000 subject to KDE approval.
	HCBOE approved sale of bonds for \$1,865,000 for construction of bridge and for the purchase of site for the school
June 14, 2004	HCBOE gave approval for the new revised BG-1 to reflect costs of bridge and property at RossPoint for new high school. Approval was also given for property at Rosspoint once original signatures had been obtained for a price of \$1,075,000 per appraisal.
June 21, 2004	In accordance with KRS 160.160, KDE approved the sale of the Harlan County School District Finance Corporation School Building Revenue Bonds, Series 2004, and dated June 1, 2004 in the amount of \$1,865,000. The bonds were being issued to finance the new school.
June 24, 2004	KDE gave approval to enter into agreement with the low bidder - Kay & Kay Contracting, LLC, in the amount of \$669,000. (Included purchase orders of \$414,061.50).

Appendix H (Continued)

Date of Action:	Board Decision:
September 13, 2004	The architect conducted a presentation of the new high school.
September 13, 2004	The HCBOE gave approval for the Master plan and permission given to proceed with construction - site development for the Harlan County High School. The board authorized the superintendent to request from the Department of Transportation access right of way adjacent to the property for Harlan County High School. The superintendent was also authorized to request relocating access control points for the new athletic complex.
October 11, 2004	HCBOE voted to set the tax rates for the 2004-2005 school year at 38.9 on real estate and 39.4 on personal property. The board voted to give 5.8 cents of the total property tax rate to participate in SFCC and FSPK offers.
October 14, 2004	KDE advised HCBOE to proceed with bids for site development.
October 15, 2004	HCBOE gave approval to advertise for bids on site development for Harlan County High School.
October 29, 2004	HCBOE accepted the low bid from Robert Clear Coal Corporation in the amount of \$839,408.43 subject to KDE approval and sale of revenue bonds.
November 3, 2004	KDE advised HCBOE that proposed agreement between HCBOE and Robert Clear Coal Corporation bid in the amount of \$839,408.43 for site development could be approved.
November 8, 2004	HCBOE gave permission to the Superintendent to sign interim contract with Robert Clear Coal Corporation.
November 8, 2004	HCBOE gave approval for sale of bonds for site preparation of the Harlan County High School. HCBOE also gave approval for the superintendent and or Chairman of the Board to sign an interim contract for site development of the new high school upon approval by KDE and to submit a revised BG-1 for the project. Approval was also given to pay architects \$37,605.50 for Harlan County High School.
November 13, 2004	KDE advised HCBOE that the agreement for site development could be executed.
December 1, 2004	KDE gave approval for sale of Harlan County School District Finance Corporation School Building Revenue Bonds, Series 2004, and dated December 1, 2004 for \$985,000. These bonds were to be used to finance the site preparation for the new high school.
December 13, 2004	HCBOE gave approval to escrow money left from JACHS renovation projects (approximately \$224,000) to be used as debt service for the new high school. HCBOE approved payment on Bid Package #2 for site development for \$84,240.
January 13, 2005	HCBOE approved payment to Robert Clear Coal Corporation for \$53,776.92 for site development (Bid Package #2). Also a pay request approved for Kay & Kay Contracting for \$10,350 for bridge replacement (Bid Package #1). Motion made to pay Interstate Construction Products \$29,428.80 for culvert products used at the new Harlan County High School site.

Appendix H (Continued)

Date of Action:	Board Decision:
February 15, 2005	HCBOE approved payment to Robert Clear Coal Corporation for \$48,709.91 for site development.
April 19, 2005	HCBOE approved pay request to Clotfelter-Samokar for \$146,861.02 for design work completed on the Harlan County High School.
May 17, 2005	HCBOE approved the design development plans and BG-2 for Harlan County High School. HCBOE approved payment of \$26,631.70 to Kay & Kay Contracting for bridge replacement.
May 17, 2005	The architect presented an overview of the plans for the new high school.
May 19, 2005	HCBOE gave approval to the design development plans of the Harlan County High School and BG-2.
June 14, 2005	HCBOE gave approval to revise the BG-1 for the new Harlan County High School to reflect the excess 2004-05 FSPK funds. Also, approval was given to pay Robert Clear Coal Corporation \$124,608.68 for site development and \$105,983.64 to Kay & Kay Contracting for bridge replacement.
July 19, 2005	HCBOE approved payment to Kay & Kay Contracting for \$45,886.16 for bridge replacement and to Robert Clear Coal Corporation for \$113,722.30 for site development for the Harlan County High School. Also, a Power Point presentation was given on the Harlan County High School.
August 16, 2005	The architect requested two (2) change orders for the Harlan County High School be approved. HCBOE approved Change order #1 for site development for Robert Clear Coal for an add on of \$416,572.00 (some of which would be reimbursed from the highway department, for box culvert, storm water piping and inlets and to revise the BG-1. HCBOE also gave approval to pay \$108,439.12 on bid package #2 for site development for the Harlan County High School.
	The HCBOE approved change order #1 to Kay & Kay Construction for bridge replacement for an add-of \$48,219.93 for concrete, steel, and excavation to extend bridge pier to bedrock and revise the BG-1. The BG-1 was revised to reflect change orders for Kay & Kay (for bridge replacement) and Robert Clear Coal Corporation (for site development).
September 1, 2005	HCBOE granted permission to apply for a CEG grant to pay for a water tank at the new high school.
September 14, 2005	KDE approved change order # 1 to Robert Clear Coal Corporation for site development costs of \$416,572.00.
September 20, 2005	HCBOE approved the BG-4 and final payment to Kay & Kay Construction for \$114,306.93 for Harlan County High School bridge replacement. Also, the HCBOE approved change order #2 for \$3,600 to Robert Clear Coal Corporation for site development costs. HCBOE gave approval to pay Robert Clear Coal Corporation \$114,704.76 for site development costs. The architect gave an update on the new high school.

Appendix H (Continued)

Date of Action:	Board Decision:
September 22, 2005	HCBOE approved change order #2 to Kay & Kay Construction for bridge replacement \$17,007.50 for additional channel lining at Harlan County High School. HCBOE approved change order #3 to Robert Clear Coal for \$20,000 for perforated drain and gravel filled French drain at Harlan High School. Approval was given to pay BeeBo Tech \$320,000 for bridge at Harlan County High School.
September 29, 2005	KDE approved change order # 1 on bid package #1 for bridge replacement for \$48,219.93.
October 18, 2005	HCBOE rescinded change order #3 for bid package #2 for site development and a new change order for \$29,648.97 was approved for perforated drain, gravel filled French drain to provide concrete headwall at Harlan High School. HCBOE approved change order # 4 for bid package #2 for site development for \$56,192.40 to add additional cubic yards of cut and engineered fill at Harlan County High School site. HCBOE approved change order #5 for bid package #2 for site development for \$43,068 for blasting at the Harlan County High School site. The HCBOE gave approval for payment on bid package #1 for bridge replacement for \$131,314.43 and approval for the BG-4 and final payment for construction of bridge at Harlan County High School site. HCBOE approved payment on bid package #2 for site development for \$144,079.60 for Harlan County High School. Approval was also given to pay vendors \$24,450 for the Harlan County High School bridge and \$2,040 on the new Harlan County High School. HCBOE declared the culvert pipe surplus and approved the sale of the surplus pipe at or above the appraised value.
October 24, 2005	KDE approved the final BG-4 for Kay & Kay Contracting, LLC, for the bridge replacement.
October 25, 2005	KDE approved change order #3 for Robert Clear Coal for \$29,648.97, change order #4 for \$56,192.40, and change order #5 for \$43,068.00.
November 8, 2005	HCBOE gave approval for the final plans and specifications for the Harlan County High School.
	HCBOE gave approval to revise the BG-1 to reflect transfer of funds, orders on site development (bid package #2) and construction of bridge (bid package 1).
November 8, 2005	The HCBOE approved change order #6 to Robert Clear Coal Corporation for \$168,516.80 for additional earthwork and blasting at site of the new high school. Approval was also given to pay Clotfleter-Samokar \$372,538.98 for design development for the Harlan County High School. Pay request approved to Robert Clear Coal Corporation for \$271,630.46 for Harlan County High School site.
	HCBOE gave approval to advertise for bids on the construction phase of the new high school pending approval from KDE.
	HCBOE gave approval to transfer funds totaling \$454,900.06 from closed out projects to the new high school project upon approval from KDE. HCBOE gave approval to pay \$271,630.46 on bid package #2 for site development.
December 13, 2005	HCBOE gave permission to accept the 4.46 acres of land donated by the sellers of the property for the new high school and permission to sign the deed.

Appendix H (Continued)

Date of Action:	Board Decision:
December 13, 2005	HCBOE voted to transfer the funds from BG#98-037 HVAC & Electrical Renovations at JACHS in the amount of \$227,909.22 to BG#04-149 the new high school project upon approval from KDE and the School Facilities Construction Commission.
	The HCBOE approved payment on bid package #2 for site development for \$112,743.15.
January 10, 2006	KDE approved change order #6 to Robert Clear Coal Corporation for \$168,516.80 for site development.
January 12, 2006	HCBOE gave approval to pay Robert Clear Coal Corporation \$136,870.20 for work completed on the Harlan County High School site.
February 16, 2006	The architect gave an animated PowerPoint presentation of the new high school and explained reasons for change orders. Approval was given to pay Clotfelter-Samokar \$13,587.10 for Harlan County High School.
February 16, 2006	HCBOE voted on a special called meeting pertaining to bids on the new high school to be on February 27, 2006 at 12:00 p.m. (On that date two of the board members were not present).
	HCBOE accepted the SFCC offer of assistance in the amount of \$24,885 annual debt service.
	HCBOE approved pay request to Robert Clear Coal Corporation for site development costs of \$59,850.76 for the Harlan County High School.
February 27, 2006	The architect explained only two (2) bids had been received for the new Harlan County High School and these were about \$3,000,000 more than they thought they would be. He recommended the board reject the bids. HCBOE rejected all bids submitted for the new Harlan County High School.
March 16, 2006	The architect explained that since the bid for the new Harlan County High School had been rejected, various changes could be made to lower the price.
	HCBOE gave approval for the architect to set another bid date for the new Harlan County High School with proposed permanent changes, proposed temporary changes, and proposed alternate bid packages.
April 27, 2006	Update on sewer project for Rosspoint and Harlan County High School- correspondence from Congressman's office about the project, which stated that the City of Harlan could apply for a wastewater construction grant through PRIDE for the project. It is a 100% funding round and listed as a priority for funding.
May 5, 2006	D.W. Wilburn offered the school district a \$300,000 reduction in their bid to move forward without delay. (Letter states that this offer was only good through May 8 th).
May 18, 2006	HCBOE approved payment to the architect for \$820,120.00 contingent upon the sale of bonds for the new high school.
May 22, 2006	HCBOE voted to enter into a contract with D.W. Wilburn for the construction phase for the base bid of \$29,900,000 and to submit a revised BG-1.

Appendix H (Continued)

Date of Action:	Board Decision:
June 20, 2006	Agreement with the City of Harlan for Proposed Construction of a package Waste Water Treatment Plant for Harlan County High School and Ross point Elementary.
June 29, 2006	HCBOE approved change order #7 to Robert Clear Coal Corporation for site development costs of \$130,177.96.
June 29, 2006	The architect advised the school board of back up plans for the sewage permit.
July 6, 2006	KDE approved sale of \$31,920,000 in Harlan County School District Finance Corporation School Building Revenue Bonds, Series 2006 and dated July 1, 2006. The bonds were issued to finance the construction of the new central high school.
July 7, 2006	KDE approved contract with D.W. Wilburn for construction of the new school.
July 10, 2006	KDE approved change order #7 on bid package #2 for \$130,177.96.
July 20, 2006	The architect gave an update on the progress of the Harlan County High School and asked for change order #7 for site development costs to Robert Clear Coal Corporation be revised to \$211,499.06 due to some invoices being left off. HCBOE approved payment to D.W. Wilburn of \$1,416,777.23 for construction costs for Harlan County High School. HCBOE approved payment to a vendor for \$18,117.30 for the Harlan County High School.
	HCBOE approved change order # 7 for bid package #2 for site development costs of \$130,177.97; however, this was revised to \$211,499.06.
August 14, 2006	KDE approved revised change order # 7- to Robert Clear Coal Corporation for site development costs of \$211,499.06.
August 17, 2006	HCBOE approved payment to Clotfelter-Samokar for \$41,038 for the Harlan County High School.
September 21, 2006	The architect gave an update on the progress of the Harlan County High School.
September 21, 2006	HCBOE voted to submit a revised BG-1 to reflect change order #1 for bid package #3 for construction for \$313,632.00 bid price plus architect fee which is alternate #10, specialty casework (science tables and utilities) Approval was given to revise page 3 of BG04-149 on Harlan County High School to reflect all costs and funding used to date on the project.
	HCBOE approved pay request for bid package #2 for site development for \$181,686.51. Approval was also given for payment on bid package #3 for construction for \$986,796.94 for Harlan County High School. Approval was given to pay the architect \$21,442.80 for Harlan County High School.
October 19, 2006	HCBOE approved change order #2 for bid package #3 for construction for \$2,281 for steel changes. They also approved payment on bid package #3 for construction for \$665,168.46 and \$416,620.19 to various vendors for work completed on the Harlan County High School. Pay request to architecture approved for \$11,096.40.

Appendix H (Continued)

Date of Action:	Board Decision:
November 28, 2006	HCBOE approved payment on bid package #3 for construction for \$1,230,789.20 and \$509,873.18 to various vendors for work on the Harlan County High School. A PowerPoint presentation of the Harlan County High School was also presented. Approval given to change order #3 for Harlan County High School in the amount of negative \$291.00 for changing floor boxes in the gymnasium.
December 14, 2006	HCBOE approved payment for bid package #3 for construction for \$1,572,459.94 and various vendors \$556,021.82.
January 11, 2007	HCBOE gave approval to revise the BG-1 to reflect change order #4 to D.W. Wilburn Construction Company for installation of kitchen equipment cost of \$281,456.60 plus additional architect engineer fees of \$16,761.51. HCBOE approved payment to D.W. Wilburn for \$517,081.50 in construction costs and \$393,604.60 to various vendors. Approval was also given to pay Clotfelter-Samokar, \$38,836.80 for Harlan County High School.
February 15, 2007	HCBOE approved payment to D.W. Wilburn Construction for \$381,783.34 and various vendors for items used in the construction of Harlan County High School in the amount of \$691,767.90.
February 28, 2007	KDE approved change order # 1 to D.W. Wilburn Construction for \$297,000, change order #2 for -\$2,281, change order #3 for -\$291, and change order #4 for \$47,274.60.
March 15, 2007	HCBOE approved payment to D.W. Wilburn for \$714,169.30 and various vendors \$315,563.02 for Harlan County High School. Approval was also given to pay Clotfelter-Samokar, \$11,046.40 for Harlan County High School.
April 19, 2007	HCBOE voted to submit a BG-4 and make final payment on bid package #2 for site development upon approval from (KDE). HCBOE approved final payment on bid package #2 for site development in the amount of \$141,638.87 for site work on Harlan County High School. They also approved change order # 5 for \$113,114 for bid package #3 on the construction phase for partial fit up for the auditorium that was not included in the first bid and the revised BG-1. They approved change order #6 on bid package #3 on the construction phase for \$457,107.15 for gymnasium seating, which was not on the original bid and the revised BG-1. (Purchase orders \$340,985 and \$116,122.75) They approved pay request on bid package #3 on the construction phase for \$452,305.24 and \$142,488.30 to various vendors for work completed on Harlan County High School. Approval was given to pay the architect \$11,146.40 for work completed on the Harlan County High School.
April 26, 2007	KDE granted approval to the HCBOE to make final payment on bid package #2 for site development. KDE gave approval for change orders #5 for \$113,114 and change order #6 for \$116,122.75 for bid package #3.
May 17, 2007	HCBOE gave approval to enter into a contract with the Harlan County School District Finance Corporation for the issuance of \$2,050,000 principal amount of special obligation bonds (school building revenue bonds) to provide funds for contingency money for the new central high school. Pay request approved for architect for \$72,467.19, pay request approved for construction phase of bid package #3 for \$784,396.20 and to various vendors \$522,911.09.

Appendix H (Continued)

Date of Action:	Board Decision:
June 14, 2007	Pay request approved for bid package #3 construction phase of the new high school for \$716,594.89 and various vendors for \$395,521.05. The board voted to transfer \$732,236 from the building fund to BG #04-149 to be used for the new Harlan County High School and to submit a revised BG-1.
June 28, 2007	Approval to enter into contract with Harlan County Fiscal Court and The City of Harlan to access the Rosspoint School Property and the Harlan County High School Property to make preliminary engineering assessments and calculations for the sewer line in the Rosspoint area as per attached document.

Appendix I

**Funding Sources For The Harlan County High School
Construction Project – From The BG-1 Approved By KDE On 7/05/07**

Source:	Amount:	Description:
SFCC Cash	\$22,006.00	State has given this to the school district-cash in bank account
SFCC Bond Sale	440,000.00	State has given this to the school district-cash- in bank account
Local Bond Sale	15,147,928.00	School District has to repay through bond sales
General Fund Bond Sale	3,245,000.00	School District has pledged this from savings from Evarts, Cumberland, and Cawood High Schools
Cash-Old Projects	685,731.00	Cash- in bank account
Cash -Building Fund	1,226,336.00	Cash - in bank account
Cash-Investment Earnings	1,000,000.00 (D)	Interest earning which will be earned over the lifetime of the project money invested in regular school bank account-earning over 5% interest
KETS	208,000.00	Cash- left over from technology programs-will be used for new technology
Category 5 Bonds	17,987,072.00	Urgent needs given the school - State will be repaying this back over the lifetime of the bonds sold by the school
Food Service	297,217.00	Cash- left over from food service
Total Funds Available	\$40,259,290.00	
	Cash	
	\$22,006.00	SFCC
	440,000.00	SFCC
	685,731.00	old projects
	1,226,336.00	building fund-
	208,000.00	restricted for technology
	297,217.00	from food service
	\$2,879,290.00	
	Bonds	
	\$15,147,928.00	local bond sales
	3,245,000.00	General Fund bond sales (pledged from savings from Evarts, Cumberland and Cawood High Schools
	\$18,392,928.00	Total bond sales school district has to repay
	\$18,392,928.00	School District has to repay
	17,987,072.00	State has appropriated for urgent needs- will repay this -(part of bonds
	\$36,380,000.00	Total To be Repaid
	\$36,380,000.00	Bond Sales ©
	1,000,000.00	Interest Earnings (D)
	2,879,290.00	cash (A)
	\$40,259,290.00	Total Funding Sources

Appendix J

Estimated Annual Operational Savings

The table presented below shows the projected annual operational savings estimated by the HCBOE to fund this project. . Assuming \$447,000 in annual operational savings in salaries, factored over a 20-year period, that is \$8,940,000 in funds that could be committed to debt service.

Estimated Savings By Consolidating (This estimate was provided by the HCBOE)

Principals Salaries (2)	\$	130,000.00
Assistant Principal Salary	\$	25,000.00
Guidance Counselor (1)	\$	55,000.00
Librarians (2)	\$	100,000.00
ROTC Instructors (4)	\$	100,000.00
School Secretaries (3)	\$	36,000.00
Clerk/Secretaries (2)	\$	24,000.00
Maintenance Position (1)	\$	19,000.00
Transportation	\$	(92,000.00)
Maintenance Personnel	\$	50,000.00
Utilities		Unknown
Total Estimated Savings	\$	447,000.00

Appendix K
Worksheet provided by HCBOE

<p style="text-align: center;">Harlan County High School Remaining Cost to Finish the Project As of 06/30/2007</p>			
Description	Cost as Bid	Estimated Cost	Remarks
Sewage Treatment Plant	\$0	\$0	
Specialty Casework	\$0	\$0	
Food Service Equipment	\$0	\$0	
Bituminous Paving on Site	\$510,000	\$510,000	To be done as Change Order to Existing Contract
Gymnasium Seating	\$150,000	\$180,000	
Vo.-Ag. Suite	\$580,000	\$696,000	
Auditorium Fit-up	\$895,000	\$895,000	
Main Lobby Floor Finish		\$150,000	
Water Line		\$54,500	Separate Bid
Security Camera System		\$229,800	
Technology Wiring		\$247,000	Separate Bid
Interactive White Boards & Screens		\$245,000	
Basketball Goals		\$50,000	Direct Owner Purchase
Greenhouse		\$30,000	
Athletic Fields & Facilities		\$5,000,000	Separate Bid
Construction Cost		\$8,287,300	
Bonds, A/E, Legal etc. @ 11%		\$911,603	
Contingencies on Separate Bids Only		\$290,315	
Division of Water Mitigation		\$95,000	
		\$9,584,218	
Contingency available to defer above costs		(\$1,720,321)	
Amount to complete project as of 06/30/07		\$7,863,897	

Appendix L

CAD images
of the new Harlan County High School
Pictures obtained from the website at: <http://www.harlan.k12.ky.us/>.

Figure 1



Figure 2



Appendix L (Continued)

Figure 3



Figure 4



Appendix L (Continued)

Figure 5

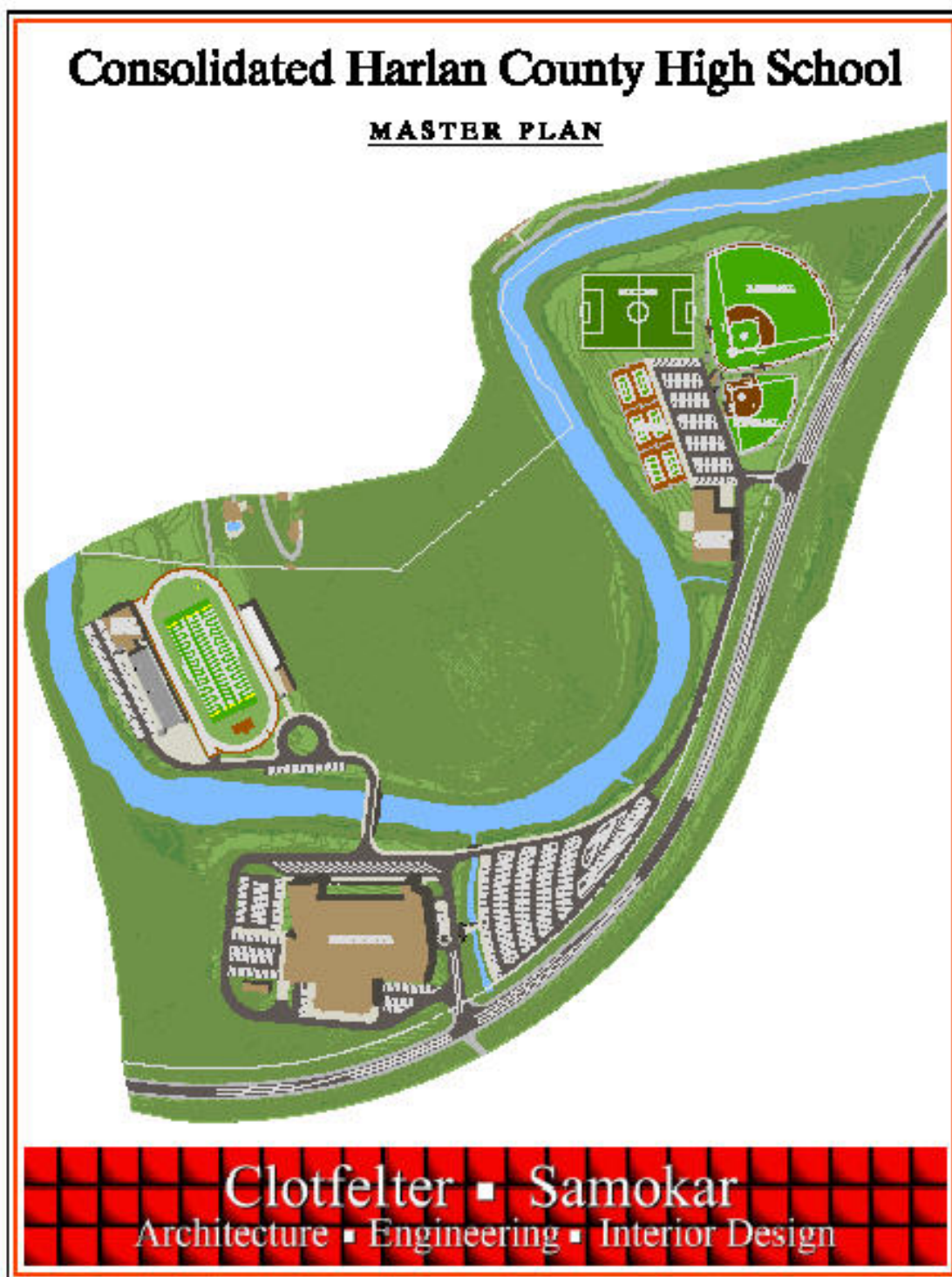


Figure 6



Appendix L (Continued)

Figure 7



Appendix L (Continued)

Figure 8

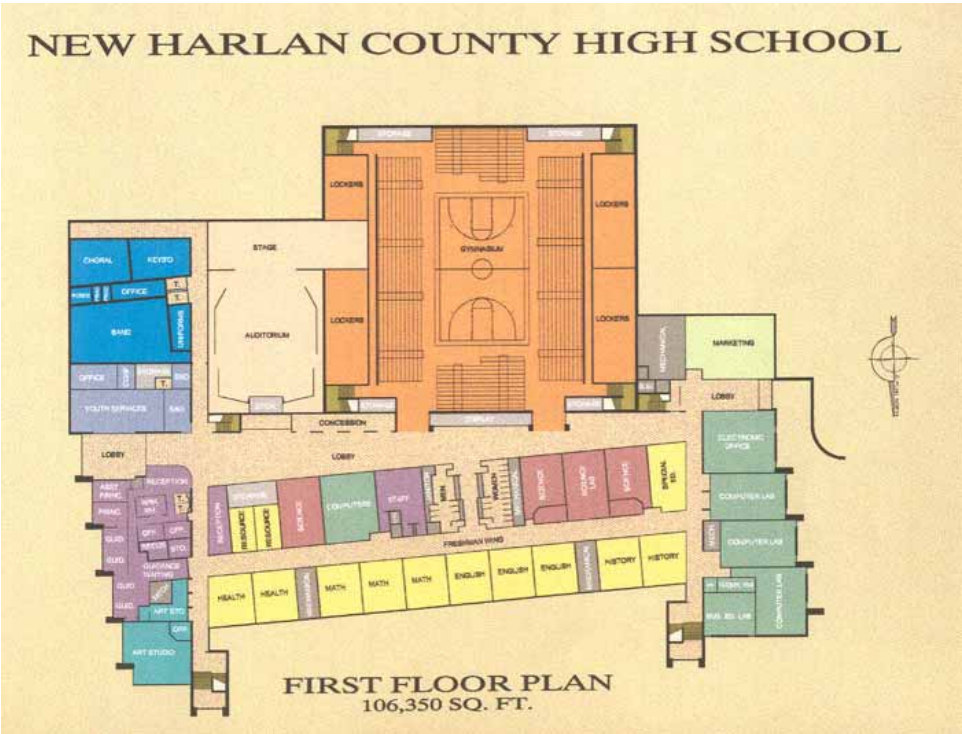
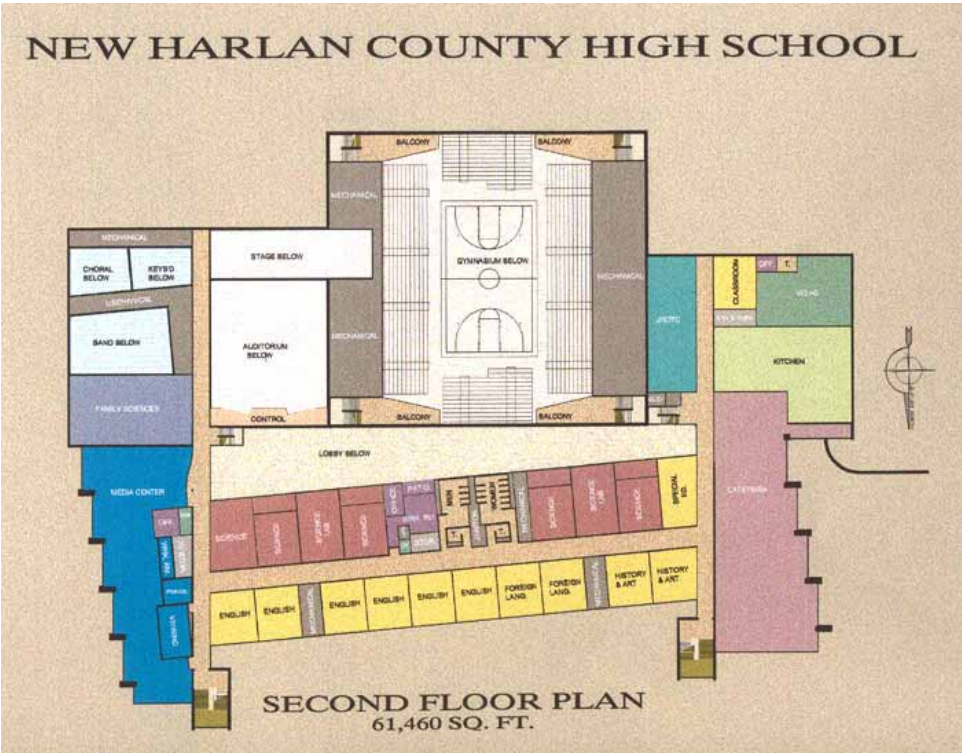


Figure 9



Appendix L (Continued)

Figure 10

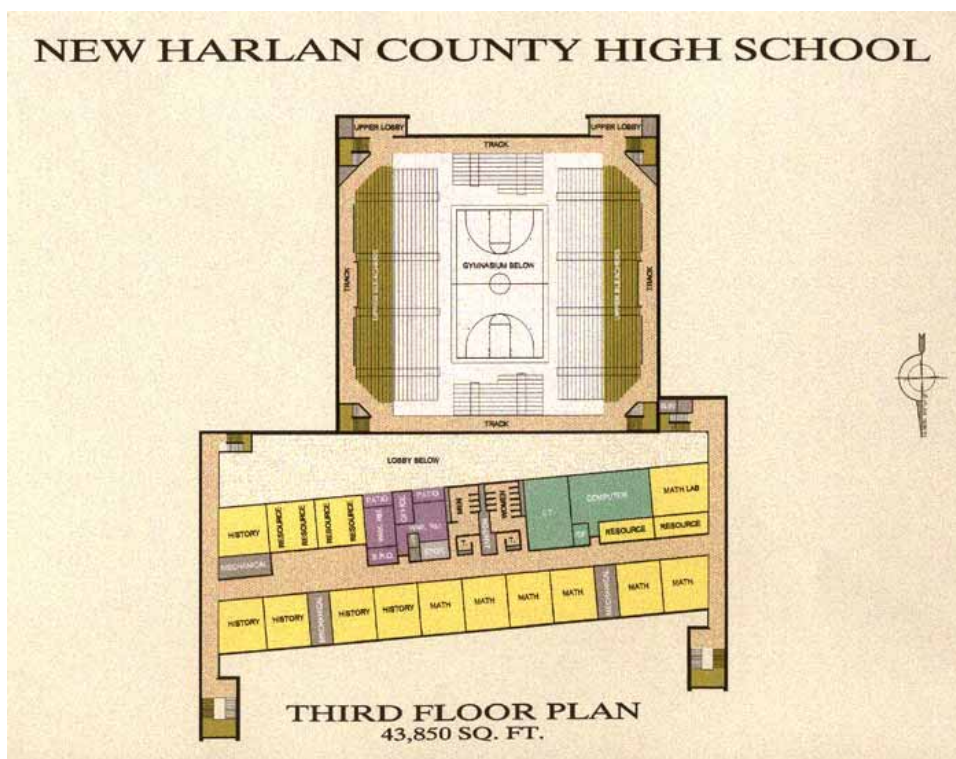


Figure 11



Appendix M
Response provided by KDE

“We compliment the auditor and her staff on the thoroughness, observations and recommendations of the report regarding construction of the new Harlan County High School and processes used by KDE to review and approve public school construction projects. Generally we concur with the findings and recommendations of the report, but in the interest of clarity we offer the following comments:

- A key issue in the report is that the initial BG-1 Project Application cost estimate, approved 11/11/03 by KDE, was too low and didn’t include site cost and architectural-engineering fees. True, the initial estimate was probably based upon the 2001 needs assessment, but it was a starting point, and it did include \$1,500,000 for site acquisition and \$983,544 for architectural-engineering fees. (See Appendix C of the auditor’s report.) The report does confirm that delays caused by the planning process and land acquisition, plus rampant inflation caused by Katrina and the worldwide demand for metals and oil, and the final design of the project caused substantial cost escalation.
- The report states, “The BG-1 does not reflect the total cost to complete a project.” True for Harlan County High School and other projects tailored to fit available funding, but not so for the majority of school projects that are bid with all components required for the educational program.
- On Page 8, the report begins an outline of KDE’s responsibilities under 702 KAR 1:001. However, the responsibilities listed include those required not only by 702 KAR 1:001, but also by 702 KAR 4:050, 702 KAR 4:090, 702 KAR 4:160, and 702 KAR 4:170.
- Page 12 of the report says the BG-1 for the project was never revised from the 2003 estimate, but our Harlan High School file contains nine revised BG-1 financial pages that indicate the increasing project cost and funding.
- Page 15, regarding the Office of Education Accountability Report #332: As recommended by OEA, revisions to 702 KAR 1:001, currently being prepared for submission to the Kentucky Board of Education, will use multipliers for the RSMeans square foot costs to account for fees, contingencies, site acquisition and site development costs when estimating district needs for facility plans. And we will also use inflation multipliers, but two years before the devastation no one predicted a Katrina and the effect it would have on the cost of building materials. Point being that some of OEA’s recommendations are being implemented. It must be understood that actual construction cost estimates on the BG-1—including inflation factors—are made by the architects, engineers, or construction managers commissioned by the school district, and not by KDE staff.
- KDE currently administers to current regulations regarding public school design and construction, site acquisition, leases, easements, and property disposal, but the regulations do not call for us to manage and micro-manage school construction projects, or to supplant the architects, engineers and construction managers hired by the school districts to design, administer, or manage building projects.”

Appendix N
Response provided by the HCBOE

“We wish to formally respond to a portion of your assertion concerning complying with bid requirements. We did in fact advertise the request for a second round of bids through several plan rooms, which is the vehicle builders use to search for projects that are in the bid process. We opened the bids on April 5, 2006 and a copy of the bid sheet is attached. We had only one bid of \$30,200,000 as the base bid. After negotiations with the lone bidder, we arrived at a contract price of \$29,900,000 and the board at its meeting held on May 22, 2006, awarded a contract based on the negotiated price that was agreed upon after the second round of bids. We are attaching a copy of the minutes of May 22, 2006, for your records. We are also attaching a newspaper article from the Harlan Daily Enterprise dated April 6, 2006, which reports the opening of the second round of bids. We feel the above documents satisfy your requirement for documentation regarding the bid opening and acceptance of a bid.

We ask that these three documents referenced above be added as Appendix items in the report.”

HARLAN COUNTY BOARD OF EDUCATION

SCHOOL BOARD MINUTES

DATE: MAY 22, 2006 **TIME:** 6:30 P.M.

LOCATION: HARLAN COUNTY CENTRAL OFFICE

TYPE OF MEETING: SPECIAL

CALLED TO ORDER	A special called meeting of the Harlan County Board of Education was called to order by Gary Farmer.
ROLL CALL OF MEMBERS	<u>Present</u> - Myra Mosley, Arlene Brown, Pam Sheffield and Gary Farmer. <u>Absent</u> : Brenda Henson
NO. 160 CONTRACT & REVISED BG-1 NEW HARLAN COUNTY HIGH	Upon motion by Myra Mosley and seconded by Gary Farmer the board voted to enter into a contract with D.W. Wilburn for the base bid amount of \$29,900,000 for construction of the new Harlan County High School and to submit a revised BG-1. Voting yes- Myra Mosley, Pam Sheffield and Gary Farmer. Voting No- Arlene Brown. Motion passed- 3 yes, 1 no.
NO. 161 ADJOURNMENT	Upon motion by Pam Sheffield and seconded by Myra Mosley the Board moved to adjourn. All ayes.

Appendix N (Continued)

[illegible]

Appendix N (Continued)
Response provided by the HCBOE

Thursday ♦ April 6, 2006

Harlan Daily Enterprise

harlandaily.com

OUR 105th YEAR — NO. 82

(606) 573-4510

2 SECTIONS — 34 PAGES

50c

Board receives bid for new school

By DEANNA LEE

Staff Writer

The Harlan County Board of Education is reviewing a bid for the construction of Harlan County High School from a company that has resubmitted an offer after its initial bid was rejected in February.

D.W. Wilburn, of Lexington, was the only company to submit an offer for the construction project during Wednesday's second round of bidding. Elliott Contracting, of Pikeville, was expected to place a bid as well but was unable to issue a bond before the 2 p.m. deadline, said David Samokar, of Clotfelter and Samokar, the school's architectural firm.

D.W. Wilburn and Elliott Contracting, the only two companies to place initial bids on the project, had their offers of \$35,579,000 and \$37,328,000, respectively, rejected in February due to higher-than-expected costs and few candidates.

Construction setbacks, Samokar said, are reportedly occurring throughout the state and nation due to fluctuating oil prices and the aftermath of hurricanes Katrina and Rita.

In an earlier report, Samokar said the school would work with the "contractors who bid to see what to

do to reduce costs." Recent changes in the overall design of the school in the form of revisions and eliminations were expected to shave nearly \$3 million from the cost of construction.

On Wednesday, D.W. Wilburn returned with a base bid of \$30,200,000. Alternate bids, however, brought the total amount to \$33,932,000.

Jesika Wilburn, project coordinator for D.W. Wilburn, said the "alternate bids" are not necessities, but add-ons to the project that would increase the bottom line.

"If they want it, it's added to the

Lexington company submits second bid of \$30.2 million

contract," she said.

A total of \$3,732,000 was presented for the alternate bids.

"Do we have a job?" Wilburn asked shortly after learning that her company was the sole bidder.

"It's going to be close," Samokar said.

Last month, Samokar said he had been in contact with five or six contractors in Knoxville. Companies not awarded bids on upcoming projects in that area were possible candidates for the new school's construction project, he said.

Samokar said he was "a little" surprised that only one company

placed a bid on the project Wednesday.

Mike Howard, the school district's assistant superintendent of finance, said the board is reviewing more information coming from D.W. Wilburn and will likely announce a special meeting some time next week.

The school district is anticipating a 2008 opening.

D.W. Wilburn's current undertakings include projects for Belfry High School, Bryan Station High School in Lexington and the Pike County Civic Center. Past projects include the Center for Rural Health in Hazard and the Kentucky Artisan Center in Berea.

Appendix O
Auditor's Reply

The HCBOE advertised for bids for the construction of the new Harlan County High School. When the two bid proposals were over the available funding, a decision was made by the HCBOE, based on the architect's recommendation to seek new proposals based on a revised and reduced scope of work. When a sole bid was received, as a result of the revised and reduced scope of work, it still exceeded the available funds. At that point, they negotiated the final price.

The HCBOE did not provide documentation for the advertisement of the second round of bids in the local newspaper having the largest circulation in the school district as required by regulation.